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FROM

John A. ...
Department of State





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THE
CONSTITUTIONS
OF THE
STATES AT WAR
1914-1918

EDITED BY
HERBERT F. WRIGHT



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919



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PREFACE.

This collection of Constitutions comprises the Constitutions of only those States at war in 1914-1918 which were independent or quasi-independent (that is, under "the sphere of influence" of strictly sovereign States) prior to 1 August 1914. And among these States have been included not only those which formally declared war, but also those whose territory has been the scene of military operations, albeit against their will.

In each case the constitutional document published is the most recent available one, whether it was framed or amended prior to the war or thereafter, provided, of course, that the war was not directly responsible for it. The documents for each State are preceded by a brief historical *mise en scène*. Original texts of documents appear only when drawn up in English; where the original is in some language other than English, it has been printed here in translation. Some of these translations have been based upon previously published translations; some are presented in English here for the first time. And, although due credit is given in the footnotes to the source from which the translation is derived, the editor has not hesitated to compare translations with the original texts and to freely revise them whenever necessary in the interest of greater clearness and uniformity of expression. Nor has he hesitated to modify or add footnotes, where such procedure seemed necessary or expedient for a proper understanding of the text. For all such revision he assumes full and sole responsibility. However, he must plead the lack of time and the unavailability of material as excuses for any unevenness in the matter of footnotes.

An effort has been made to supply at least one reference in the footnotes to a French text or translation of each document, but where other sources have been immediately available in fairly accessible works, these likewise have been indicated. For this purpose, use has been made of collections of Constitutions rather than of individual prints or annotated texts, and the following works are the ones which have been most frequently used:

- Annuaire de législation étrangère*, vols. 1-44.
- British and Foreign State Papers*, vols. 1-108.
- DARESTE, F. R., ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), 2 vols.
- DODD, W. F., *Modern Constitutions* (Chicago, 1909), 2 vols.
- POSENER, PAUL, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909).
- RODRIGUEZ, J. I., *American Constitutions* (Washington, 1906), 2 vols.

As bibliographies of texts and commentaries appear in Dareste's and Dodd's collections, it has not been deemed necessary to print such lists here. For the various treaties referred to in the prefatory historical notes the reader is referred to Tétot, Ribier and similar treaty catalogues.

Finally, the editor wishes to express his great indebtedness and grateful appreciation to his friend and former colleague, Prof. Francis J. Hemelt, of the Catholic University of America, for the valuable cumulative and analytical index; to Miss Alice M. Ball and Miss Ruth E. Stanton, for their invaluable assistance in matters of accuracy and nicety of translation as well as for their generous aid in expediting the work through the press; and to the Government Printing Office, for its prompt and whole-hearted cooperation from beginning to end.

HERBERT F. WRIGHT.

WASHINGTON, *28 March 1919.*

CONTENTS.

	Page.
Albania: Historical note	1
Austria-Hungary:	
1. The Dual Monarchy: Historical note.....	3
Various fundamental laws.....	4
2. Austria: Historical note.....	11
Various fundamental laws.....	11
3. Hungary: Historical note	25
Various fundamental laws.....	26
Belgium: Historical note.....	43
Constitution of 7 February 1831, with amendments of 7 September 1893.....	44
Brazil: Historical note	61
Constitution of 24 February 1891.....	61
Bulgaria: Historical note.....	87
Constitution of 16/28 April 1879, with amendments of 15/27 May 1893 and 11/24 July 1911.....	88
China: Historical note.....	105
Provisional Constitution of 11 March 1912.....	106
Costa Rica: Historical note.....	111
Constitution of 8 June 1917.....	111
Cuba: Historical note	151
Constitution of 21 February 1901.....	152
Appendix of 12 June 1901.....	173
Egypt: Historical note.....	175
Organic Law of 21 July 1913.....	175
France: Historical note.....	191
Various fundamental laws.....	193
Germany: Historical note.....	217
Constitution of 16 April 1871.....	218
Great Britain and Ireland: Historical note.....	239
Various fundamental laws.....	240
Greece: Historical note.....	261
Constitution of 1/14 June 1911.....	262
Guatemala: Historical note.....	279
Constitution of 11 December 1879.....	279
Haiti: Historical note.....	295
Constitution of 12 June 1918.....	295
Honduras: Historical note.....	315
Constitution of 14 October 1894.....	315
Italy: Historical note	337
Fundamental Statute of 4 March 1848.....	337
Law of Guarantees of 13 May 1871.....	347
Japan: Historical note	351
Constitution of 11 February 1889.....	351
Liberia: Historical note.....	359
Constitution of 26 July 1847, as amended 7 May 1907.....	359

	Page.
Liechtenstein: Historical note	375
Constitution of 26 September 1862	375
Luxemburg: Historical note	391
Constitution of 17 October 1868	392
Montenegro: Historical note	407
Constitution of 6/19 December 1905	407
Law of 28 August 1910 proclaiming Prince Nicholas King	429
Nicaragua: Historical note	431
Constitution of 10 November 1911	431
Panama: Historical note	457
Constitution of 13 February 1904	457
Legislative Act of 14 March 1917 amending the Constitution	477
Persia: Historical note	481
Constitution of 30 December 1906	482
Supplementary Constitutional Law of 7 October 1907	489
Portugal: Historical note	499
Constitution of 21 August 1911	499
Roumania: Historical note	517
Constitution of 30 June/12 July 1866, as amended 13/25 October 1879 and 8/20 June 1884	517
Russia: Historical note	537
Fundamental Laws of 23 April/6 May 1906	537
San Marino: Historical note	549
Law of 29 August 1907	549
Serbia: Historical note	553
Constitution of 5/18 June 1903	554
Siam: Historical note	587
Turkey: Historical note	589
Constitution of 22 December 1876, as amended in 1909	590
United States of America: Historical note	607
Constitution of 17 September 1787	608
Amendments to the Constitution of 17 September 1787	618
Index	625

THE CONSTITUTIONS
OF
THE STATES AT WAR
1914-1918

VII

ALBANIA.

The independence of Albania, a former province of Turkey, was proclaimed at Avlona on 28 November 1912,¹ and a provisional government was then formed under the leadership of Ismail Kemal Bey. On 20 December 1912, the London Conference of Ambassadors agreed that there should be an autonomous Albania² and later approximately defined the frontiers of the new country. This Conference also appointed Prince William of Wied sovereign (*M'pret*), to be supported and advised by an International Commission of Control of six members. Prince William, having accepted the crown of the new country from an Albanian deputation which offered it to him at Neuwied 21 February 1914, arrived at Durazzo on 7 March 1914, but after the outbreak of the European War fled from the country with most of the members of the Commission. An attempt made by Essad Pasha to set up a military form of government failed (5 October 1914) and Albania fell into a state of anarchy. On 25 December 1914, the Italians captured Avlona. No written Constitution has yet been drafted.³

¹ *Annual Register*, 1912, p. 356.

² Official statement issued by the British Foreign Office and published in the *London Times*, 21 December 1912.

³ These paragraphs are based upon *The Statesman's Year-book* (1918) and W. M. PETROVITCH, *Albania*, in *The Encyclopedia Americana*, vol. 1 (New York, 1918), pp. 324-326.

AUSTRIA-HUNGARY.

Austria-Hungary, which presents a peculiar condition of political organization, may perhaps be more conveniently treated under three headings: 1. The Dual Monarchy, 2. Austria, and 3. Hungary.

1. THE DUAL MONARCHY.

The unity of the Austro-Hungarian Monarchy had its origin in the Pragmatic Sanction of 19 April 1713, whose principal object was to outline the rules for succession to the throne of the Hapsburgs, but the measure of Hungary's independence from Austrian control was a source of continual disturbance, and it was only in 1867 that the establishment of the Dual Monarchy was made possible by Austria's defeat at the hands of Prussia and its exclusion from Germany and Italy. This event brought about a more conciliatory policy toward Hungary's insistent demands for entire independence in the management of its internal affairs, and on 17 February 1867 the laws of 1848, which recognized Hungary as an independent monarchy joined with Austria only by the bonds of a common ruler, were restored in force by imperial order. To the Hungarian Diet was left the final adoption of measures of compromise with Austria. This question was covered by the Hungarian Law 12 of 1867 and the Austrian Law of 21 December 1867, both of which also made provision for ten-year treaties relating principally to a uniform customs tariff for the two countries, the monetary system and Hungary's quota of expenses of the joint Austro-Hungarian government.

In 1878 when Bosnia and Herzegovina were taken from Turkey and placed under the control of Austria-Hungary in accordance with Article 25 of the Treaty of Berlin,¹ identical laws were adopted in the two parts of the Empire for the administration of these territories, which were finally annexed by the Imperial Proclamation of 7 October 1908.²

¹ French text in the *British and Foreign State Papers*, 69: pp. 749-767; English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. iv (London, 1891), pp. 2759-2799.

² These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. 1, pp. 113-114, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 391-394.

AUSTRIAN LAW OF 21 DECEMBER 1867.¹**LAW CONCERNING THE AFFAIRS COMMON TO ALL OF THE COUNTRIES OF THE AUSTRIAN MONARCHY, AND THE MANNER OF MANAGING THEM, SUPPLEMENTARY TO THE CONSTITUTIONAL LAW ON THE REPRESENTATION OF THE EMPIRE.²**

ARTICLE 1. The following affairs are declared common to Austria and Hungary:

a. Foreign affairs, including diplomatic and commercial representation abroad, as well as measures relating to international treaties, reserving the right of the representative bodies of both parts of the Empire (Reichsrat and Hungarian Diet) to approve such treaties, in so far as such approval is required by the Constitution.³

b. Military and naval affairs; excluding the voting of contingents and legislation concerning the manner of performing military service, the provisions relative to the local disposition and maintenance of the army, the civil relations of persons belonging to the army, and their rights and duties in matters not pertaining to the military service.

c. The finances, with reference to matters of common expense, especially the establishment of the budget and the examination of accounts.

ART. 2. Besides these, the following affairs⁴ shall not indeed be administered in common, but shall be regulated upon uniform principles to be agreed upon from time to time:

1. Commercial affairs, especially customs legislation.⁵

2. Legislation concerning indirect taxes which stand in close relation to industrial production.

3. The establishment of a monetary system and monetary standards.

4. Regulations concerning railway lines which affect the interests of both parts of the empire.

5. The establishment of a system of defense.

ART. 3. The expenses of affairs common to both Austria and Hungary shall be borne by the two parts of the Empire in a proportion to be fixed from time to time by an agreement between the two legis-

¹ Translation based upon DODD, *op. cit.*, pp. 114-122. German text in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 736-741. French translation in DARESTE, *op. cit.*, pp. 394-403.

² The Hungarian Law 12 of 12 June 1867 contains provisions applicable to Hungary which are practically identical with those of this law. On this account it is not thought necessary to give the text of the Hungarian law, although there are some contradictory dispositions in the two laws. A German translation of the Hungarian Law appears in POSENER, *op. cit.*, pp. 741-752, and French translation in DARESTE, *op. cit.*, pp. 403-423.

³ The attributions of the Minister of Foreign Affairs are fixed by the imperial decision of 12 April and 27 May 1852.

⁴ Articles 52 *et seq.* of the Hungarian Law do not carry this obligation.

⁵ See DARESTE, *op. cit.*, p. 395, note 3.

lative bodies (Reichsrat and Diet), approved by the Emperor. If an agreement can not be reached between the two representative bodies, the proportion shall be fixed by the Emperor, but for the term of one year only.¹ The method of defraying its quota of the common expense shall belong exclusively to each of the parts of the Empire.²

Nevertheless, joint loans may be made for affairs of common interest: in such a case all that relates to the negotiation of the loan, as well as the method of employing and repaying it, shall be determined in common.³

The decision as to whether a joint loan shall be made is reserved for legislation by each of the two parts of the Empire.

ART. 4. The contribution towards the expense of the present public debt shall be determined by an agreement between the two parts of the Empire.⁴

ART. 5. The administration of common affairs shall be conducted by a joint responsible ministry, which is forbidden to direct at the same time the administration of the joint affairs and those of either part of the Empire.

The regulation of the management, conduct, and internal organization of the joint army shall belong exclusively to the Emperor.

ART. 6. The legislative power⁵ belonging to the legislative bodies of each of the two parts of the Empire (Reichsrat and Hungarian Diet) shall be exercised by them, in so far as it relates to joint affairs, by means of delegations.

ART. 7. The delegation from the Reichsrat shall consist of 60 members, of whom one third shall be taken from the House of Lords and two thirds from the House of Representatives.⁶

ART. 8. The House of Lords shall choose its 20 members of the delegation from among its own members by a majority vote.

¹ This phrase is omitted in the Hungarian Law (Article 21).

² By Section 36 of this law agreement regarding the distribution of the expense of affairs administered in common is reached by means of deputations from the Austrian Reichsrat and the Hungarian Diet. Each deputation is composed of 15 members. By a law of 24 December 1867 the ratio was fixed for 10 years as 70 per cent for Austria and 30 per cent for Hungary. New ten-year agreements were made by Laws of 27 June 1878 and 21 May 1887. No new agreement has been made since 1897, and the quota of the two parts of the monarchy has been annually fixed by the Emperor as 66½ per cent for Austria and 33½ per cent for Hungary. A new agreement, signed on 8 October 1907, and approved by the Hungarian Diet and Austrian Reichsrat, fixes Hungary's quota of common expenses as 36.4 per cent.

³ No loan of this kind has yet been contracted.

⁴ By a law of 24 December 1867 Hungary made a permanent agreement to pay 29,188,000 florins annually toward the interest of the public debt; this was in 1867 nearly 24 per cent of the total joint debt and 30 per cent of the interest after the deduction of 25,000,000 florins of the debt, for which Hungary refused to assume any responsibility.

⁵ This power is expressly refused to the delegations by the Hungarian Law (Article 37).

⁶ By Hungarian Law 30 of 1868 5 members of the Hungarian delegation must be chosen from among the Croatian members of the Hungarian Diet, 4 from the House of Representatives, and 1 from the Table of Magnates. The Hungarian delegation is also composed of 60 members.

The 40 members to be chosen by the House of Representative shall be so elected that the deputies from each provincial diet may elect, in conformity with the following apportionment, a certain number of delegates, who may be chosen from among themselves or from the House at large.

By majority vote the deputies from the Kingdom of Bohemia shall elect 10; the Kingdom of Dalmatia, 1; the Kingdom of Galicia and Lodomeria, with the Grand Duchy of Cracow, 7; the Archduchy of Lower Austria, 3; the Archduchy of Upper Austria, 2; the Duchy of Salzburg, 1; the Duchy of Styria, 2; the Duchy of Carinthia, 1; the Duchy of Carniola, 1; the Duchy of Bukowina, 1; the Margravate of Moravia, 4; the Duchy of Upper and Lower Silesia, 1; the Princely County of Tyrol, 2; the Territory of Vorarlberg, 1; the Margravate of Istria, 1; the Princely County of Görz and Gradiska 1; the city of Triest with its territory, 1.

ART. 9. In the same way each house of the Reichsrat shall elect substitutes of delegates, of whom 10 shall be chosen by the House of Lords and 20 by the House of Representatives.

The number of substitutes to be chosen by the House of Representatives shall be so apportioned that there shall be one substitute for every one to three delegates, and two substitutes for every four or more delegates. The election of each substitute shall take place separately.

ART. 10. Delegates and their substitutes shall be elected annually by the two houses of the Reichsrat.

The delegates and substitutes shall retain their functions until the new election.

Members of the delegation are eligible for reelection.

ART. 11. The delegations shall be convened annually by the Emperor, who shall determine the place of their meeting.

ART. 12. The delegation from the Reichsrat shall elect a president and vice president from among its own members, and choose also its secretary and other officers.

ART. 13. The powers of the delegations shall extend to all matters concerning common affairs.

All other matters shall be beyond their power.

ART. 14. The projects of the government shall be submitted by the joint ministry to each of the delegations separately.

Each delegation shall also have the right to submit projects concerning affairs which are within its competence.

ART. 15. For the passage of a law concerning matters within the power of the delegations the agreement of both delegations shall be necessary, or in default of such agreement, a vote of the full assembly of the two delegations sitting together; in either case the approval of the Emperor shall be necessary.

ART. 16. The right to hold the joint ministry to its responsibility shall be exercised by the delegations.

In case of the violation of a constitutional law in force regarding common affairs, either of the delegations may present charges to the other against the joint ministry or against any one of its members.

The impeachment shall be legally effective when resolved upon separately by each of the delegations, or in a joint meeting of the two.

ART. 17. Each delegation shall propose, from among the independent and legally trained citizens of the country which it represents, but not from among its own members, 24 judges, of whom 12 may be rejected by the other delegation. The accused, or all of them when there are several, shall have the right to reject 12 of those named by the two delegations, but only in such a manner that an equal number of judges be rejected from the lists proposed by each delegation.

The remaining judges shall form a court for the trial of the impeachment.

ART. 18. A special law on the responsibility of the joint ministry shall regulate the details concerning the impeachment, the procedure of trial, and the judgment.¹

ART. 19. Each delegation shall act, deliberate and vote in separate session. Article 31 indicates an exception to this rule.

ART. 20. The decisions of the delegation of the Reichsrat shall require for their validity the presence of not less than 30 members besides the president, and every decision shall require the vote of a majority of those present.

ART. 21. The delegates and substitutes from the Reichsrat shall receive no instructions from their electors.

ART. 22. The delegates from the Reichsrat shall personally exercise their right to vote; Article 25 determines when a substitute shall take the place of a delegate.

ART. 23. The delegates from the Reichsrat² shall enjoy in that capacity the same immunity which they have as members of the Reichsrat by virtue of Article 16 of the fundamental law concerning the representation of the Empire.

If the Reichsrat is not in session, the above-mentioned rights shall be enforced by the delegation itself with respect to its members.

ART. 24. One who ceases to be a member of the Reichsrat shall cease at the same time to be a member of the delegation.

ART. 25. If a vacancy occurs in the delegation or among the substitutes a new election shall be held.

If the Reichsrat is not in session the substitute shall take the place of the retiring delegate.

¹ This law has not been passed.

² The omission of all mention of the Hungarian delegation in this article should be attributed to an error in editing; see Article 37 of the Hungarian Law.

ART. 26. When the House of Representatives is dissolved the powers of the delegation of the Reichsrat shall come to an end. The newly assembled Reichsrat shall elect a new delegation.

ART. 27. The session of the delegation shall be closed, after the completion of its work, by the president with the consent of the Emperor or by his order.

ART. 28. The members of the joint ministry shall have the right to take part in all the deliberations of the delegation, and to present their projects personally or through a deputy.

They shall be heard whenever they desire.

The delegation shall have the right to address questions to the joint ministry or to any one of its members, to require answers and explanations and to appoint committees to whom the ministers shall furnish all necessary information.

ART. 29. The sessions of the delegation shall as a rule be public.

Exceptionally the public may be excluded if it is so decided by the assembly in secret session, upon the request of the president or of not less than five members.

Every decision, however, shall be made in public session.

ART. 30. Each delegation shall communicate to the other its decisions and, if the case requires it, the reasons therefor.

This communication shall take place in writing, in German on the part of the delegation of the Reichsrat, in the Hungarian language on the part of the delegation of the Diet; in each case there shall be annexed a certified translation into the language of the other delegation.

ART. 31. Each delegation shall have the right to propose that a question be decided by a vote in joint session, and this proposal can not be declined by the other delegation after the exchange of three written communications without result.

The two presidents shall agree upon the time and place of the joint meeting of the two delegations for the purpose of voting together.

ART. 32. In the joint sessions the presidents of the delegations shall preside alternately. It shall be determined by lot which of the two presidents shall preside in the first place.

In all subsequent sessions the presidency at the first joint meeting shall belong to the president of the delegation which has not had the presidency at the meeting immediately preceding.

ART. 33. In order to transact business in joint session the presence of not less than two thirds of the members of each delegation shall be necessary.

Decisions shall be reached by a majority vote.

If one delegation has more members present than the other, so many members shall abstain from voting as shall be necessary to establish an equality of the number of voters from each delegation.

It shall be determined by lot which members shall abstain from voting.

ART. 34. The joint sessions of the two delegations shall be public.

The minutes shall be kept in the two languages by the secretaries of the two delegations and attested by both.

ART. 35. Further details regarding the procedure of the delegation of the Reichsrat shall be regulated by an order of business to be adopted by the delegation itself.¹

ART. 36. Agreement concerning matters which, though not managed in common, yet are to be regulated upon the same principles, shall be reached in one of the following ways: (1) The responsible ministries by an agreement between themselves shall prepare a project of law which shall be submitted to the representative bodies of the two parts of the Empire and the project agreed upon by the two representative bodies shall be submitted for the approval of the Emperor. (2) Each representative body shall elect from its members a deputation composed of an equal number of members, which shall prepare a project upon the initiative of the respective ministries; such project shall be submitted to each of the legislative bodies by the ministries, shall be regularly considered, and the identical law of the two assemblies shall be submitted for the approval of the Emperor. The second procedure shall be followed especially in reaching an agreement concerning the distribution of the cost of affairs administered in common.²

AUSTRIAN LAW OF 22 FEBRUARY 1880.³

LAW CONCERNING THE ADMINISTRATION OF BOSNIA AND HERZEGOVINA, ENTRUSTED TO AUSTRIA-HUNGARY BY THE TREATY OF BERLIN OF 13 JULY 1878.⁴

ARTICLE 1. In conformity with existing laws concerning the common affairs of the Monarchy, the ministry is authorized and directed, under its constitutional responsibility, to take charge of the provisional administration of Bosnia and Herzegovina, which shall be directed by the joint ministry.

¹ Internal regulation for the delegation of the Reichsrat of 21 January 1868. See F. MOREAU ET J. DELFÈCH, *Les Règlements des Assemblées Législatives*, vol. 1 (Paris, 1906), p. 381.

² Article 37 of this law is omitted; it related to the time when the law became effective.

³ Translation based upon Dodd, *op. cit.*, pp. 122-123. French translation in DARESTE, *op. cit.*, pp. 423-425.

⁴ Hungarian Law 6 of 1880 is identical.

ART. 2. The determination of the general spirit and principles of this provisional administration and the construction of railways shall, in particular, be regulated by agreement between the governments of the two parts of the Austro-Hungarian Monarchy.

ART. 3. The administration of these lands shall be so regulated that its expenses may be met from its own revenue.

If and in so far as this result can not be immediately attained, projects for raising revenue to cover ordinary expenses shall be decided upon by agreement between the governments of the two parts of the Monarchy, in the manner provided by existing laws for the regulation of common affairs.

Nevertheless, in so far as the administration of Bosnia and Herzegovina may require expenditures for permanent establishments, which do not belong within the scope of the current administration, such as railways, public buildings and similar extraordinary expenses, which should be assumed by the Monarchy, subsidies therefor shall only be granted by virtue of identical laws passed by the two parts of the Monarchy.

ART. 4. In the same manner the principles shall be established according to which the following affairs shall be regulated and administered in Bosnia and Herzegovina:

1. The customs system.
2. The indirect taxes which are regulated upon similar principles in the two parts of the Monarchy.
3. The monetary system.

ART. 5. Any alteration of the relations existing between these lands and the Monarchy shall require an identical authorization from the legislatures of the two parts of the Monarchy.

2. AUSTRIA.

The first attempt at a common representation of all the Austrian countries dates from 1848, when revolutions broke out in almost all parts of the Austrian dominions, but it was not until the Imperial Diploma of 20 October 1860 was issued that the way was finally paved for the establishing of lasting reforms. This Diploma was practically superseded by the Patent of 26 February 1861,¹ which governed the representation of the Empire in the Reichsrat and gave to each Austrian province a special constitution and an electoral law. This Constitution of 1861 proved a signal failure, and the Emperor finally determined to recognize the principle of dualism and to reach an agreement with Hungary upon that basis. On 20 September 1865, he suspended the Patent of 1861, and negotiations were immediately begun with Hungary which ended in the *Compromis* of 1867. The changed relations with Hungary made necessary changes in the Austrian Constitution; the fundamental laws of 1867 recast the Austrian government upon more liberal principles than had hitherto existed. Since that date important changes have been introduced with regard to the suffrage qualification, and at the present time it seems that the problem of the diverse races contained in the Empire is about to receive its natural solution.²

FUNDAMENTAL LAWS OF 21 DECEMBER 1867.³

LAW CONCERNING THE GENERAL RIGHTS OF CITIZENS.

ARTICLE 1. For all natives of the various kingdoms and countries represented in the Reichsrat there exists a common right of Austrian

¹ English translation in *British and Foreign State Papers*, 52: pp. 1218-1221.

² This introductory paragraph is based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 69-70, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 428-430.

³ Translation based upon DODD, *op. cit.*, pp. 71-89. German text of the second and last laws in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 753-760. French translation in DARESTE, *op. cit.*, pp. 431-451.

citizenship. The law shall determine under what conditions Austrian citizenship is gained, exercised and lost.

ART. 2. All citizens are equal before the law.

ART. 3. Public offices shall be equally open to all citizens. The admission of foreigners to public office is dependent upon their acquisition of Austrian citizenship.

ART. 4. The freedom of passage of persons and property, within the territory of the State, shall be subject to no restrictions.

All citizens who live within a commune and pay therein a tax on real property, business, or income shall have the right to vote for members of the communal assembly (*Gemeindevertretung*) and shall be eligible to that body under the same conditions as natives of the commune.

Freedom of emigration is limited by the State only by the obligation to serve in the army.

Taxes on emigration shall be levied only as a measure of retaliation.

ART. 5. Property is inviolable. Forced expropriation shall take place only in the cases and according to the forms determined by law.

ART. 6. Every citizen may dwell temporarily or establish his residence in any part of the territory of the State, acquire real property of any kind and freely dispose of the same, and may also engage in any form of business, under legal conditions.

In the matter of mortmain the law may, for reasons of public policy, restrict the right of acquiring and of disposing of real property.

ART. 7. Every relation of vassalage or dependence is forever abolished. Every burden or charge resting upon the title to real property is redeemable, and in future no land shall be burdened with an irredeemable charge.

ART. 8. Liberty of person is guaranteed. The Law of 27 October 1862 (*Reichsgesetzblatt*, No. 87) on the protection of individual liberty is hereby declared an integral part of the present fundamental law.¹ Every arrest ordered or prolonged in violation of law imposes an obligation upon the State to indemnify the injured party.

ART. 9. The domicile is inviolable. The Law of 27 October 1862 (*Reichsgesetzblatt*, No. 88) for the protection of the domicile is hereby declared an integral part of this fundamental law.²

ART. 10. The secrecy of letters shall not be violated: the seizure of letters, except in case of a legal arrest or search, shall take place only in time of war or by virtue of a judicial order issued in conformity with the law.³

¹ This law contains the provisions regarding arrest, hearing and bail.

² This law regulates the issuance and execution of orders for the search of houses.

³ Law of 6 April 1876.

ART. 11. The right of petition is free to everyone. Petitions under a collective name should emanate only from legally recognized corporations or associations.

ART. 12. Austrian citizens shall have the right to assemble together and to form associations. The exercise of these rights is regulated by special laws.¹

ART. 13. Everyone shall have the right, within legal limits, freely to express his thoughts orally, in writing, through the press, or by pictorial representation.²

The press shall not be placed under censorship nor restrained by the system of licenses. Administrative prohibitions of the use of the mail are not applicable to matter printed within the country.

ART. 14. Full freedom of religion and of conscience is guaranteed to all. The enjoyment of civil and political rights is independent of religious belief; however, religious belief shall in no way interfere with the performance of civil duties.

No one shall be forced to perform any religious rite or to participate in any religious ceremony, except in so far as he is subject to another who has legal authority in this matter.³

ART. 15. Every legally recognized church and religious society has the right publicly to exercise its religious worship; it regulates and administers its internal affairs independently, remains in possession and enjoyment of its establishments, institutions and property held for religious, educational and charitable purposes; but is subject, as other societies, to the general laws of the State.⁴

ART. 16. Adherents of a religious confession not legally recognized are permitted to worship privately, in so far as their religious services are not illegal or contrary to public morals.⁵

ART. 17. Science and its teaching shall be free. Every citizen whose capacity has been established in conformity with law shall have the right to establish institutions of instruction and education and to give instruction therein. Private instruction shall be subject to no such restriction. Religious instruction in the schools shall be left to the church or religious society to which the school is attached.⁶ The State shall have the right of superior direction and superintendence over the entire system of education and instruction.⁷

ART. 18. Everyone shall be free to choose his occupation and to prepare himself for it in such place and in such manner as he may wish.

¹ Two laws of 15 November 1867.

² Law of 17 December 1862.

³ Law of 25 May 1868.

⁴ Law of 7 May 1874.

⁵ Laws of 25 May 1868 and 20 June 1872.

⁶ Law of 14 May 1869, amended and completed by Law of 2 May 1883.

ART. 19. All the races of the State shall have equal rights, and each race shall have the inviolable right of maintaining and cultivating its nationality and language.

The State recognizes the equality of the various languages in the schools, public offices, and in public life.

In the countries populated by several races, the institutions of public instruction shall be so organized that each race may receive the necessary instruction in its own language, without being obliged to learn a second language.¹

ART. 20. A special law shall determine the right of the responsible governing power to suspend temporarily and in certain places the rights mentioned in Articles 8, 9, 10, 12 and 13.²

LAW ALTERING THE LAW OF 26 FEBRUARY 1861 CONCERNING IMPERIAL REPRESENTATION.

ARTICLE 1. The Reichsrat is the common representative body of the Kingdoms of Bohemia, Dalmatia and Galicia and Lodomeria with the Grand Duchy of Cracow, of the Archduchies of Lower and Upper Austria, of the Duchies of Salzburg, Styria, Carinthia, Carniola and Bukowina, of the Margravate of Moravia, of the Duchy of Upper and Lower Silesia, of the Princely County of Tyrol and the territory of Vorarlberg, of the Margravate of Istria, of the Princely County of Görz and Gradiska, and of the City of Trieste with its territory. The Reichsrat is composed of a House of Lords (*Herrenhaus*) and a House of Representatives (*Haus der Abgeordneten*).

Persons appointed members of the House of Lords in conformity with Articles 3 and 5 may be elected to the House of Representatives. In case of the acceptance of such an election, the membership in the House of Lords ceases for the period during which such office is held.³

Should a representative be appointed to the House of Lords in conformity with Articles 3 or 5, his membership therein shall not begin until after he ceases to be a representative.³

ART. 2. Princes of the imperial family who have attained full age are by birth members of the House of Lords.

ART. 3. Chief of the indigenous noble families, of full age, who possess extensive landed property within the Austrian States, are hereditary members of the House of Lords, if such dignity has been conferred upon them by the Emperor.

ART. 4. All archbishops and all bishops enjoying princely rank, within the Austrian States, shall be members of the House of Lords by virtue of their high ecclesiastical rank.

¹ Cf. Law of 28 February 1882.

² Law of 5 May 1869.

³ As amended 26 January 1907.

ART. 5. The Emperor shall have the right to call into the House of Lords as life members eminent men from the kingdoms and countries represented in the Reichsrat, who have rendered distinguished services to the State or church, to science or art.

The number of such members shall not exceed 170 nor fall below 150.¹

ART. 6. The House of Representatives shall be composed of 516 members, apportioned to and elected in the several kingdoms and countries as follows:

Kingdom of Bohemia.....	130
Kingdom of Dalmatia.....	11
Kingdom of Galicia and Lodomeria with the Grand Duchy of Cracow.....	106
Archduchy of Lower Austria.....	64
Archduchy of Upper Austria.....	22
Duchy of Salzburg.....	7
Duchy of Styria.....	30
Duchy of Carinthia.....	10
Duchy of Carniola.....	12
Duchy of Bukovina.....	14
Margravate of Moravia.....	49
Duchy of Upper and Lower Silesia.....	15
Princely County of Tyrol.....	25
Territory of Vorarlberg.....	4
Margravate of Istria.....	6
Princely County of Görz and Gradiska.....	6
City of Trieste and its territory.....	5

The apportionment to the several election districts of the members of the House of Representatives, to be chosen in accordance with this list, shall be determined by the election law of the Reichsrat.²

ART. 7. Every male person who has attained the age of 24 years, possesses Austrian citizenship, is not excluded from the right to vote by the provisions of the election law of the Reichsrat, and who at the time the election is ordered has resided for at least one year in the Austrian commune in which the right to vote is to be exercised, is qualified to vote for representatives.³

Every male person who has been in the possession of Austrian citizenship for at least three years, has attained the age of 30 years, and is not excluded from the right to vote by the provisions of the election law of the Reichsrat, is eligible as a representative.

In case the election law of the Reichsrat should provide for the election of substitutes of representatives, the foregoing provisions concerning eligibility are also applicable to such substitutes.

¹ This paragraph added by amendment of 26 January 1907.

² This article was amended on 26 January 1907, increasing the membership of the House of Representatives from 425. The new election law bears the same date.

³ Art. 66, Sect. 1 of the Law of 1 August 1895.

The election law of the Reichsrat contains the further regulations concerning the exercise of the right to vote and concerning the conduct of elections.¹

ART. 8. Public officers and functionaries who may be elected to the House of Representatives do not need a leave of absence in order to attend the meetings of that body.

ART. 9. The Emperor appoints the president and vice-president of the House of Lords from among its members, and for the term of the session. The House of Representatives elects from its own members its president and vice president. Each of the houses chooses its other officers.

ART. 10. The Reichsrat shall be convened annually by the Emperor, during the winter months when possible.

ART. 11. The competence of the Reichsrat extends to all matters which relate to the rights, obligations and interests common to the countries represented therein, in so far as these matters are not to be handled in common, in consequence of the agreement of the countries of the Hungarian crown with the other countries of the monarchy.

Thus, the competence of the Reichsrat extends to:

a. The examination and approval of commercial treaties and of those political treaties which place a financial burden upon the Empire or upon any part thereof, which place obligations upon individual citizens, or which have as a consequence a change of the territory of the kingdoms and countries represented in the Reichsrat.

b. All matters which relate to the form as well as to the regulation and term of military service²; particularly the annual grant of military forces, and the general provisions regarding the furnishing of relays and the maintenance and quartering of troops.

c. The establishment of the budget, and particularly the annual grant of taxes and duties to be levied; the examination of the accounts and of the results of the financial administration, the final approval of such accounts; the issue of new loans, the conversion of the existing State debt, the alienation, transformation, or burdening

¹ The text here given is that introduced by amendment of 26 January 1907. Before this change there were five classes of electors: (1) The great landowners, comprising those who paid a certain land tax, varying in the several Provinces from 50 to 250 florins; this class elected 85 representatives. (2) The cities, where the electoral franchise was extended to all males of 24, who paid a tax of 5 florins; this class elected 99 representatives. (3) Chambers of commerce and of industry; this class alone elected 21 representatives and together with the second class chose 19 others. (4) Rural communes, in which the qualifications for voting were the same as in the cities; this class elected 129 representatives. (5) A fifth class created by law of 14 June 1896 included all males who had attained the age of 24 years; this class chose 72 representatives.

The amendment of 1907 abolishes the class system of voting, and establishes universal suffrage for all representatives. The election law of the Reichsrat of 26 January 1907 makes the further provisions for elections under the new system of universal suffrage; each Province is divided into election districts, most of which choose only one representative; each commune forms a voting precinct.

² Laws of 11 April 1889 and 6 June 1886.

of the public domain; legislation concerning monopolies and seigniorial rights, and in general all financial affairs which are common to the kingdoms and countries represented in the Reichsrat.

d. The regulation of the monetary system and of banks of issue, of customs and commercial affairs, of the telegraph, post, railways, navigation, and of other means of communication within the Empire.

e. Legislation concerning credits, banks, patents of invention, industry,¹ with the exception of legislation concerning the monopoly of liquor; weights and measures, the protection of trade-marks and of industrial models.

f. Legislation concerning public health and for protection against epidemics and epizootics.

g. Legislation concerning citizenship and domicile, the police control of foreigners, the system of passports and the taking of the census.

h. Concerning confessional relations, the rights of assembly and of association; concerning the press and the protection of literary and artistic property.

i. The establishment of the principles of the educational system in the primary² and secondary schools, and legislation concerning the universities.

k. Legislation concerning criminal justice and police penalties³; the civil law, with the exception of legislation concerning the details of the systems of public registries and concerning such matters as, in the terms of the provincial constitutions and of this fundamental law, belong within the competence of the provincial diets; legislation concerning commercial law and commercial paper,⁴ maritime law, mines⁵ and feudal rights.

l. Legislation concerning the principles of the judicial and administrative organization.

m. The laws to be passed in execution of the fundamental laws concerning the general rights of citizens, the imperial court, the judicial power and the administrative and executive power.

n. Legislation concerning the matters which relate to the duties and relations of the particular countries among themselves.

o. Legislation concerning the manner of handling matters which, through the agreement with Hungary, are recognized as common to the two parts of the Empire.

ART. 12. All matters of legislation other than those expressly reserved to the Reichsrat by the present law belong within the power

¹ Law of 20 December 1850, amended 15 March 1883 and 8 March 1885.

² Law of 14 May 1860, amended 2 May 1883.

³ Code of Criminal Procedure of 23 May 1873; Penal Code of 27 May 1852.

⁴ Commercial Code of 17 December 1862.

⁵ Law of 23 May 1854.

of the provincial diets of the kingdoms and countries represented in the Reichsrat and are constitutionally regulated by such diets.¹

In matters which, according to the principles of the provincial constitutions and of this fundamental law, belong within the competence of provincial legislation, the provinces in the regulation of such affairs may also adopt necessary measures in the fields of criminal justice, police justice and civil law.²

Within the field of provincial legislation belongs also the regulation of the organization of public administrative offices which are created by the exercise of the power of provincial legislation to organize autonomous administrative departments, the activities of which are based upon the principles reserved to imperial legislation by Article 27 of this fundamental law.²

However, should a provincial diet decide that a matter committed to it ought to be discussed and decided in the Reichsrat, such matter, for this particular case and with reference to this diet, shall come within the power of the Reichsrat.

ART. 13. Projects of laws may be submitted to the Reichsrat by the government. The Reichsrat shall also have the right to propose laws upon matters within its competence.

Every law requires the agreement of the two houses and the approval of the Emperor.

If it should happen that, in certain items of an appropriation act or with reference to the size of the contingent, in a recruiting act, no agreement can be reached between the two houses after repeated deliberation, the lowest figure shall be considered as granted.

ART. 14. If urgent circumstances should render necessary some measure constitutionally requiring the consent of the Reichsrat when that body is not in session, such measure may be taken by imperial ordinance, issued under the collective responsibility of the ministry, provided it makes no alteration of the fundamental law, imposes no lasting burden upon the public treasury, and alienates none of the domain of the State. Such ordinances shall have provisionally the force of law, if they are signed by all of the ministers, and shall be published with an express reference to this provision of the fundamental law.

¹ The 17 divisions of the Empire form 15 provincial governments, the city of Trieste, the county of Görz and Gradiska, and the Margravate of Istria being combined into a division called Coastland. Each division establishes its own *Landesordnung* or provincial constitution; each has a provincial diet, which exercises the legislative power, and a provincial committee, which exercises the executive power in local affairs. The Emperor convenes the diets annually, appoints their presidents, and may dissolve them at any time; every provincial law requires his approval. The principal executive and administrative officer of the province is the *Statthalter* or *Landespräsident*, who is appointed by the Crown and is independent of local control.

² This paragraph added by Law of 26 January 1907.

The legal force of such an ordinance shall cease, if the government neglects to present it for the approval of the Reichsrat at its next succeeding session, and indeed first to the House of Representatives, within four weeks after its convention, or if one of the two houses refuses its approval thereto.

The ministry shall be collectively responsible for the withdrawal of such ordinances as soon as they have lost their provisional legal force.

ART. 15. For the validity of any decision of the Reichsrat there is necessary in the House of Representatives the presence of 100 members, in the House of Lords of 40 members, and in each house the vote of a majority of those present.

Modifications in the present fundamental law and in the fundamental laws on the general rights of Austrian citizens, on the establishment of the imperial court, on the judicial power, and on the exercise of administrative and executive power, shall be made only by a majority of not less than two thirds of the members present and with the presence of not less than half of the members of the House of Representatives.¹

ART. 16. Members of the House of Representatives shall receive no instructions from their electors.

Members of the Reichsrat shall not be held responsible on account of any vote given, and for any utterances made by them in the exercise of their office they may be held responsible only by the house to which they belong.

No member of the Reichsrat shall be arrested or proceeded against judicially during the time of a session, on account of any criminal act, without the consent of the house, unless he were apprehended in the very act.

Even when the member is taken in the very act, the court shall give immediate notice of the arrest to the president of the house.

If the house requires it, the arrest must be suspended or the proceedings postponed during the session. The house shall have the same right with respect to an arrest or judicial proceeding instituted against a member when the Reichsrat is not in session.

ART. 17. All members of the Reichsrat must personally exercise their right to vote.

ART. 18. Members of the House of Representatives are elected for a period of six years.²

At the expiration of this period, as also in the case of the dissolution of the House of Representatives, a new election shall be held.

¹ "And with . . . Representatives" added 2 April 1878.

² As amended 2 April 1878. By the original text no limitation was placed upon the life of the Reichsrat, which came to an end only by dissolution.

The retiring representatives shall be eligible for reelection.

During the intervals between general elections supplementary elections shall be held when a member ceases to be eligible, dies, resigns, or for any other legal reason ceases to be a member of the Reichsrat, in case a substitute should not have been elected for such representative. In the latter case the election law of the Reichsrat shall contain provisions concerning the management of the new election.¹

ART. 19. The adjournment of the Reichsrat or the dissolution of the House of Representatives shall take place by decree of the Emperor. In case of dissolution a new election shall be held in conformity with Article 7.

ART. 20. Ministers and chiefs of the central administration are entitled to take part in all deliberations and to present their proposals personally or through representatives. Each house may require the presence of a minister. Ministers shall be heard whenever they desire. They shall have the right to vote only when they are members of one of the houses.

ART. 21. Each of the two houses of the Reichsrat may interpellate the ministers upon all the matters within the scope of their powers, may investigate the administrative acts of the Government, demand information from the ministers concerning petitions presented to the houses, may appoint commissions, to which the ministers shall give all necessary information, and may give expression to its views in the form of addresses or resolutions.

ART. 22. A special law shall provide how the control of the public debt shall be exercised by the representative bodies.²

ART. 23. The sessions of both houses of the Reichsrat shall be public.

Each house shall have the right, in exceptional cases, to exclude the public, upon the demand of the president or of at least 10 members, by a decision taken behind closed doors.

ART. 24. The law regarding the order of business of the Reichsrat shall contain detailed provisions concerning the reciprocal and external relations of the two houses.³

LAW CONCERNING THE ESTABLISHMENT OF AN IMPERIAL COURT.

ARTICLE 1. For the decision of conflicts of jurisdiction and of disputed questions of public law an Imperial Court (*Reichsgericht*)

¹ As amended 26 January 1907.

² Law of 10 June 1868, amended 13 April 1870.

³ Laws of 12 May 1873, 25 January 1875 and 2 March 1875. Cf. F. MORREAU ET J. DELPECH, *Les Règlements des Assemblées législatives*, vol. I (Paris, 1906), pp. 426 and 446.

shall be established for the kingdoms and countries represented in the Reichsrat.¹

ART. 2. The Imperial Court shall decide finally concerning conflicts of jurisdiction:

a. Between the judicial and the administrative authorities, concerning the question whether a matter should be decided judicially or by administrative procedure, in the cases determined by law.

b. Between the provincial diet of a particular country and the higher governmental authorities, when each of them claims the right to regulate or to decide an administrative matter.

c. Between the independent public authorities of the several countries in the affairs of which they have the direction and administration.

ART. 3. The Imperial Court shall also decide finally:

a. Concerning claims of a particular kingdom or country against the Empire, and vice versa; claims of one of the kingdoms or countries against another; claims of a commune, corporation, or individual against any one of the kingdoms or countries or against the Empire, if such claims can not be decided by the regular courts.

b. Concerning complaints of citizens on account of the violation of political rights guaranteed to them by the constitution, after the matter shall have been the object of an administrative decision, in accordance with the law.

ART. 4. Concerning the question whether the decision of a particular case is within its jurisdiction, the Imperial Court alone decides; its decisions exclude any further appeal or judicial proceedings.

If a matter is referred by the Imperial Court to a regular court or to an administrative authority, the latter can not refuse to decide such a matter on the ground of incompetence.

ART. 5. The Imperial Court shall sit at Vienna, and shall be composed of a president and president substitute, appointed by the Emperor for life, and of 12 members and 4 substitutes, also appointed for life by the Emperor, upon the nomination of the Reichsrat; 6 members and 2 substitutes shall be nominated by each house.

The nominations should be made in such a way that there shall be three properly qualified candidates for each place to be filled.

ART. 6. A special law shall determine the detailed provisions concerning the organization of the Imperial Court, its procedure, and the execution of its decisions and orders.²

¹ By a decision of 20 January 1897, the Imperial Court held that it was not competent to decide controversies between the legislature and the executive authorities.

² The Imperial Court was organized by a law of 18 April 1869.

LAW CONCERNING THE JUDICIAL POWER.

ARTICLE 1. All judicial power of the State shall be exercised in the name of the Emperor.

Judgments and sentences shall be executed in the name of the Emperor.

ART. 2. The organization and jurisdiction of courts shall be established by law.

Special tribunals may be established only in the cases previously determined by law.

ART. 3. The jurisdiction of military courts shall be determined by special law.

ART. 4. The jurisdiction with reference to violations of the police and tax laws shall be regulated by law.

ART. 5. The judges shall be appointed for life by the Emperor or in his name.

ART. 6. The judges shall be independent in the execution of their judicial office.

They shall be deprived of their office only in the cases provided by law, and by virtue of a formal judicial sentence; they shall be suspended only by the order of the president of the court or of a higher judicial officer, the matter being at the same time referred to the proper court; the transfer of a judge to another place or his retirement against his will shall take place only by judicial decision in the cases and in the manner provided by law.¹

However, these provisions do not apply to displacements or retirements which are made necessary by changes in the judicial organization.

ART. 7. The courts shall not have power to decide as to the validity of laws properly promulgated. However, the courts may determine the validity of ordinances (*Verordnungen*) which are involved in cases before them.

ART. 8. All judicial officers, in taking the oath of office, shall swear to an inviolable observance of the fundamental laws.

ART. 9. Independently of the other means provided by the judicial procedure, an action may be brought against the State or its judicial officers, because of wrongs committed by the latter in the exercise of their functions. This right of action shall be regulated by a special law.²

ART. 10. Proceedings before the judges in civil and criminal cases shall be oral and public.

Exceptions to this rule shall be determined by law. In criminal proceedings the system of public prosecution shall be in force.³

¹ Law of 21 May 1868.

² Law of 12 July 1872.

³ Code of Criminal Procedure of 23 May 1873.

ART. 11. For all offenses punished by severe penalties, which shall be determined by law, as well as for all political crimes and misdemeanors and offenses committed by the press, a jury shall decide concerning the guilt of the accused.

ART. 12. The Supreme Court of Justice and Cassation sitting at Vienna shall be maintained for all of the kingdoms and countries represented in the Reichsrat.

ART. 13. The Emperor shall have the right of amnesty; he shall also have the right to remit or to reduce the penalties imposed by the courts as well as to relieve the convicted person of the legal consequences of his condemnation, with a reservation of the restrictions contained in the law concerning ministerial responsibility.

It is reserved to the law of criminal procedure to provide a legal rule as to the cases in which a punishable act shall not be subject to a criminal proceeding, and that a trial begun in such a case shall be discontinued.

ART. 14. Justice shall be separated from administration in every case.

ART. 15. In every case where an administrative authority, under present or future laws, has to decide a contest between individuals, the party injured in his rights by such decision shall be free to proceed against the other party in the regular courts.

Moreover, if anyone asserts that through a decision or order of an administrative authority his rights have been violated, he shall have the right to make his claim against a representative of the administrative authority before the administrative court in public oral procedure.

The cases in which the administrative court shall have jurisdiction, the composition of the court and the procedure therein shall be regulated by a special law.¹

LAW CONCERNING THE EXERCISE OF ADMINISTRATIVE AND EXECUTIVE POWER.

ARTICLE 1. The Emperor is sacred, inviolable, and irresponsible.

ART. 2. The Emperor shall exercise governmental power through responsible ministers and officers and agents subordinate to them.

ART. 3. The Emperor shall appoint and dismiss ministers and, upon the proposal of the respective ministers, appoint all officers in all branches of the public service, in so far as the law does not otherwise provide.

ART. 4. The Emperor shall confer titles, orders and other public distinctions.

¹ Law of 22 October 1875, amended 19 March 1894 and 21 September 1905.

ART. 5. The Emperor shall have supreme command of the armed force, shall declare war and conclude peace.

ART. 6. The Emperor shall conclude political treaties. The consent of the Reichsrat is necessary for the validity of any treaties of commerce or political treaties which impose obligations upon the Empire, upon any part thereof, or upon any of its citizens.

ART. 7. The right to coin money shall be exercised in the name of the Emperor.

ART. 8. Before assuming the government the Emperor shall take a solemn oath in the presence of both houses of the Reichsrat:

To maintain inviolable the fundamental laws of the kingdoms and countries represented in the Reichsrat, and to govern in conformity with them, and in conformity with the laws in general.

ART. 9. The ministers shall be responsible for the constitutionality and legality of governmental acts done within the sphere of their powers.

This responsibility, the organization of a court to try impeachments of ministers, and the procedure to be observed in such a court shall be regulated by a special law.¹

ART. 10. The publication of the laws shall take place in the name of the Emperor, with a note of their passage by the representative bodies in the constitutional manner and under the signature of a responsible minister.²

ART. 11. The public authorities are empowered, within the sphere of their respective duties, to issue decrees and orders in execution of the laws, and to enforce the observance of such regulations and of the laws by all those to whom they are applicable.

Special laws shall regulate the powers of the administrative authorities, and the powers of the armed force which is permanently organized or called out in a particular case for the maintenance of public safety, peace and order.

ART. 12. All the officers of the State shall be responsible for the observance of the fundamental laws and of the imperial and provincial laws in the performance of their official duties.

To make such responsibility effective it shall be the duty of the organs of the executive power to exercise a disciplinary control over the above-mentioned public officials.

The civil liability of public officers for injury caused by illegal use of their powers shall be regulated by law.

ART. 13. All members of the public administration, in their oath of office, shall swear to an inviolable observance of the fundamental laws.

¹ Law of 25 July 1867.

² Law of 10 June 1869.

3. HUNGARY.

The constitutional development of Hungary has frequently been compared with that of England, for the Constitution is not embodied in any one instrument, but is contained in numerous laws which may be altered by the regular legislative processes. However, in Hungary the Constitution has been embodied in written laws to a much greater extent than in England.

The most important of the earlier constitutional documents of Hungary is the Bulla Aurea of Andreas II, which was issued in 1222¹ and which bears a striking resemblance to the English Magna Carta of 1215. Bulla Aurea is now chiefly of historical interest, but is of importance as one of the first steps in a long and continuous constitutional development.

Ferdinand I of Austria was chosen King of Hungary in 1526, after the Hungarian forces had been signally defeated by the Turks at the battle of Mohács. The Hapsburgs constantly endeavored to reduce Hungary to the position of a province of the Empire, and to abolish its independent national institutions. However, by the Pragmatic Sanction, which was embodied in three Hungarian laws of 1722-23, the rights of Hungary were guaranteed.

Notwithstanding the guaranty of Hungarian institutions the efforts to weaken or destroy them continued, and it was only in 1848 that the revolutionary movement finally enabled the liberal members of the Diet to carry their measures. Thirty-one laws, embodying among other things the Hungarian demands for a separate responsible ministry and for annual sessions of the Diet, were enacted and were approved by the Emperor on 11 April 1848. Under these laws Hungary became practically independent, uniting with Austria by a personal union. An attempt on the part of Hungary to secure complete independence resulted in the surrender of the Hungarians at Vilagos on 13 August 1849.

After Vilagos Hungary was governed for 10 years as a subject province. The Diploma of 20 October 1860 recognized the rights of the Hungarian Diet, but the Patent of 26 February 1861 established a central legislature at Vienna. Hungary refused to join in

¹ French translation in F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 470-476.

such a legislature or to be content with any arrangement which should not give her absolute control over her local affairs. In 1865 negotiations were entered into upon the basis of Hungary's right to an independent government, and the agreement of 1867 guarantees the "laws, constitution, legal independence, freedom, and territorial integrity of Hungary and its subordinate countries." The laws of 1848 again came into full force, and the parliamentary institutions of the country were reestablished upon a firm basis.

Under the terms of the agreement of 1867 Hungary was left to deal as it thought best with the races within its territory. With Croatia alone did Hungary find it necessary to make special terms. By a law of 1868, which has been several times amended, an arrangement¹ was made between Hungary and Croatia similar in many respects to that between Austria and Hungary.²

LAW 10 OF 1791.³

ON THE INDEPENDENCE OF THE KINGDOM OF HUNGARY AND ITS DEPENDENCIES.⁴

On the proposal of the estates and orders of the Kingdom, His Sovereign Majesty has been graciously pleased to recognize that, although the female succession of the august house of Austria, established by Laws 1 and 2 of 1723 in the Kingdom of Hungary and its dependencies, attaches to the same prince as in the other Kingdoms and hereditary States situated in Germany and outside of Germany, which must be possessed inseparably and indivisibly in accordance with the established order of succession, nevertheless, Hungary with its dependencies is a free kingdom, and independent in all that concerns the legal form of the government (with all its dicasteries⁵), that is to say, that it is subject to no other kingdom or people, but that it has its own existence and constitution, and that it must be governed and administered by its hereditary King, legally crowned, and, consequently, by His Sovereign Majesty and his successors, the Kings of Hungary, in accordance with its own laws and customs and not on the model of other provinces, conformably to Laws 3 of 1715 and 8 and 11 of 1741.

¹ French translation of the Compromis in DARESTE, *op. cit.*, pp. 505-520.

² These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. 1, pp. 91-93, and DARESTE, *op. cit.*, pp. 464-470 and 504-505.

³ Laws 10, 12 and 19 of 1791 and 8, 18 and 20 of 1848 have been translated by RUTH E. STANTON from the French translation in DARESTE, *op. cit.*, pp. 476, 477, 478, 487 and 488.

⁴ *Leopoldi II Regis Decreti A. 1791, Art. 10 (De independentia Regni Hungariæ parti-umque eidem annexarum)*. The expression *partes annexæ* served to designate the countries beyond the Drave (Croatia-Slavonia-Dalmatia).

⁵ Government authorities.

LAW 12 OF 1791.

ON THE EXERCISE OF THE LEGISLATIVE AND EXECUTIVE POWER.¹

His Sovereign Majesty voluntarily and of his own accord recognizes that the power to make, abrogate and interpret the laws in this Kingdom of Hungary and its dependencies belongs, save for the provisions of Law 8 of 1741, to the lawfully crowned Prince and to the estates and orders of the Kingdom lawfully assembled in Diet, and he has been graciously pleased to declare that he would preserve intact this right of the States, and would transmit it inviolate to his august successors as he had received it from his illustrious ancestors, guaranteeing to the estates and orders of the Kingdom that the Kingdom and its dependencies shall never be governed by edicts or by what are known as patents, which can in no case be received by any of the tribunals of the Kingdom, the deliverance of patents being reserved only in the case where, on points in other respects conforming to the law, the publication can be effectively obtained only in this way. In consequence:

The organization of tribunals, established or to be established by the law, can not be modified by royal authority; the execution of lawful sentences can not be prevented by orders of the King, nor can he in person be permitted to prevent it; the lawful sentences of the tribunals shall not be altered or yielded to the revision of the King or any political administrative authority, but the judgments shall be rendered conformably to the laws at present existing or subsequently to be made, and to the recognized custom of the Kingdom, by judges chosen without religious distinction, and the executive power shall be exercised by His Royal Majesty only in the meaning of the laws.

LAW 19 OF 1791.

ON SUBSIDIES AND CONTRIBUTION.²

His Sovereign Majesty has also been graciously pleased to guarantee fully to the estates and orders of the Kingdom and the dependencies that no subsidies, under any name whatsoever, either in money, in kind or in recruits, shall be imposed by the royal will either upon the estates and orders or upon persons not of the nobility, nor shall they be solicited, under the pretext of a free gift or for any other reason, outside of the diet, save in so far as concerns the provision of Law 8 of 1715 confirmed by Law 22 of 1741.³ The

¹ *Leopold II Regis Decretum*, Art. 12 (*De legislativæ et executivæ potestatis exercitio*).

² *Leopold II Regis Decretum*, Art. 19 (*De subsidii et contributione*).

³ These laws provide that in case of an unexpected war or a war of invasion the diet must be convoked in a place in the interior of the Kingdom in order to deliberate upon an extraordinary imposition (tax).

amount of the contribution appropriated for the maintenance of the permanent army shall always be determined from one diet to the other in the comitia of the Kingdom; save for the other provisions of Law 8 of 1715 above cited, which are, presumably, confirmed.¹

LAW 3 OF 1848.²

ON THE FORMATION OF A RESPONSIBLE HUNGARIAN MINISTRY.³

ARTICLE 1. The person of His Majesty the King is sacred and inviolable.

ART. 3. His Majesty shall exercise the executive power in conformity with law, through the independent Hungarian ministry, and no ordinance, order, decision, or appointment shall have force unless it is countersigned by one of the ministers residing at Budapest.

ART. 4. Each member of the ministry shall be responsible for all of his official actions.

ART. 5. The official seat of the ministry is Budapest.

ART. 6. In all matters which have heretofore been within the power of the Royal Hungarian Chancellery, of the Royal Council of the Regency and of the Royal Council of the Treasury, including therein mining, and especially in all civil, ecclesiastical, financial and military affairs, and in general in all matters relating to national defense, His Majesty shall henceforth exercise the executive power exclusively through the Hungarian ministry.

ART. 7. It shall be within the immediate power of His Majesty, in every case with the countersignature of the proper responsible Hungarian minister, to appoint archbishops, bishops, priors, and abbots, as well as standard bearers, to exercise executive clemency, to grant noble rank, titles and orders.

ART. 10. The ministry shall be composed of a president and of eight other ministers, if the president does not himself assume one of the portfolios.

ART. 12. His Majesty shall appoint the ministers upon the nomination of the president of the ministry.⁴

ART. 13. One of the ministers shall always be in attendance upon the person of His Majesty and shall take part in all affairs which

¹ This refers to the provisions of Law 8 of 1715 relative to the military service of the nobility and to the maintenance of the permanent army by means of a contribution to be determined in accord with the diet.

² Translations of Laws 3, 4 and 5 of 1848, 33 of 1874, and 7 of 1885 are based upon those in DODD, *op. cit.*, pp. 93-111. French translations of Laws 3 and 4 of 1848 and 7 of 1885 appear in DARENTE, *op. cit.*, pp. 479-487 and 493-501.

³ Articles 2, 9, 11 and 38 of this law were repealed and Articles 3, 17, 19 and 24 were modified by Law 7 of 1867, which suspended the office of Palatin. Article 8 related to military affairs which are now conducted by the Austro-Hungarian Government.

⁴ As amended by Law 8 of 1867.

are common to Hungary and the hereditary Provinces, and in such affairs he shall, under his responsibility, represent Hungary.¹

ART. 14. Besides the member attached to the person of the King for the affairs mentioned in Article 13, the ministry shall be divided into the following departments:

- a. Interior.
- b. Finance.
- c. Commerce.²
- d. Agriculture.²
- e. Religion and education.
- f. Justice and pardons.
- g. National defense.³

ART. 15. A separate minister shall be at the head of each department and of the official personnel thereof, which shall be under the direction of the respective chiefs of division.

ART. 16. The manner of conducting business within the departments shall be regulated by the ministry itself.

ART. 17. The president of the ministry shall preside over the Council of Ministers in the absence of the King, and he may convene the Council of Ministers as often as he considers it necessary.

ART. 18. Each minister shall be responsible for the orders which he signs.

ART. 19. For the consideration of the public affairs of the country under the presidency of His Majesty or of the president of the ministry, a Council of State shall be established at Budapest, which shall be permanently organized by the next Diet.⁴

ART. 20. In addition to the necessary staff of officers, two councilors of state shall be assigned to the minister in attendance upon the person of the King, such councilors to be selected for the present from among the active councilors of the Royal Hungarian Chancellery upon the nomination of the above-mentioned minister.

ART. 21. The affairs enumerated in Article 7 as reserved immediately to His Majesty shall be administered by the responsible Hungarian minister in attendance upon the person of the King, together with the councilors of state and officers associated with him.

ART. 22. The other active councilors of the Royal Hungarian Chancellery shall be transferred to the Council of State mentioned in Article 19.

¹ Affairs common to the two countries are now handled by the joint ministry.

² As amended by Law 18 of 1889. These two ministries were formerly called "Public Works, Means of Communication and Navigation" and "Agriculture, Industry and Commerce," respectively.

³ For the representation of the interests of Croatia-Slavonia-Dalmatia, there is also appointed a separate Croatian minister who is without portfolio. This minister is entitled to vote in the Council of Ministers and is responsible to the Hungarian House of Representatives.

⁴ The Council of State has never been organized; hence Articles 19-24 are not really in force.

ART. 23. The Royal Hungarian Council of the Regency and the Royal Council of the Treasury shall be divided among the respective departments of the ministry in pursuance of the provisions of Law 58 of 1791,¹ which shall also be taken into consideration in the organization of the Council of State.

ART. 24. The presidents of the government offices mentioned in Article 6 shall have seats in the Council of State designated by Article 19, and shall preside therein in the absence of the King and the ministers.

SEC. 25. All officers and employees of the government offices mentioned in Article 6, not only those who receive new appointments but also those who can not be given places in the above-mentioned departments of the ministry, shall retain their present salaries until other provision is made.

ART. 26. The legal powers of all local governing bodies of the country shall remain in full force.²

ART. 27. The legally established courts shall preserve their legal independence and shall retain their present organization until further provided by law.³

ART. 28. The ministers shall have seats in the two houses of the Diet and must be heard therein when they wish to speak.

ART. 29. Ministers shall be bound to attend in either house of the Diet when requested, and to give proper explanations.

ART. 30. Upon demand of either house of the Diet the ministers shall be bound to submit their official papers for examination by the house itself or by a committee appointed by the house.

ART. 31. Ministers shall have a vote in the Diet only in case they are legal members of the Table of Magnates or have been elected as representatives in the House of Representatives.

ART. 32. Ministers may be held responsible:

a. For every act committed or order executed by them in their official capacity which violates the independence of the country, the guaranties of the Constitution, the provisions of existing laws, personal liberty, or the inviolability of property.

b. For misapplication or illegal use of money or other property entrusted to them.

c. For failure to execute the laws or to maintain public peace and order, in so far as such neglect could have been avoided by the use of means placed at their disposal by the law.

¹ This law provides that the attributions of the Council of the Regency be extended to Croatia-Slavonia, which consequently should have a fixed number of representatives therein.

² See DARESTE, *op. cit.*, p. 482, note 1.

³ See DARESTE, *ibid.*, note 2.

ART. 33. The Lower House may impeach ministers by a majority vote.

ART. 34. Jurisdiction in such a case shall be vested in a court, chosen by means of secret ballot by the Upper House from among its own members; the procedure shall be public, and the penalty shall be fixed in proportion to the offense.

Thirty-six members in all shall be elected, of whom 12 may be rejected by the impeachment commission of the Lower House, 12 by the ministers under impeachment. The court thus composed of 12 persons shall try the impeached ministers.

ART. 35. With respect to a convicted minister royal pardon may be granted only in case of a general amnesty.

ART. 36. For other criminal offenses committed by ministers in an unofficial capacity, they shall be amenable to the ordinary laws.

ART. 37. The ministry is bound to submit to the Lower House for its examination and approval an annual statement of the income and needs of the country, and the account of the income administered by it during the past year.

LAW 4 OF 1848.

ON THE ANNUAL SESSIONS OF THE DIET.

ARTICLE 1. As the Diet will in future hold annual sessions at Pest, His Majesty shall annually assemble the Estates of the country, and whenever circumstances permit, during the winter months.

ART. 2. Hereafter the laws to be promulgated may also be approved by His Majesty during the course of the annual session.¹

ART. 3. Representatives shall be elected to a Diet to continue for five years, and for all the annual sessions of such a Diet.²

ART. 4. After 1848 the new election of representatives shall take place throughout the country at the expiration of each fifth year, within six weeks before the opening of the first annual session of the new Diet; members elected during the interval between general elections retain their seats in the next Diet only by means of a new election and so retain them for each of the five annual sessions of a Diet.²

ART. 5. His Majesty shall have the right to extend or to adjourn the assembled annual session and even to dissolve the Diet before the expiration of five years, and in such a case to order a new election of representatives; but in the latter case His Majesty shall order the meeting of the new Diet in such a manner that it shall assemble within three months after the dissolution of the former Diet.²

ART. 6. As the establishment of the budget by the Diet is always effective for only one year and as no tax may be imposed or collected

¹ Cf. Laws 66 and 67 of 1881.

² Law 1 of 1886 extended the life of a Diet from 3 to 5 years.

without a new establishment and grant, in case His Majesty for any reason shall dissolve the Diet before the regular time, adjourn or close its sessions before the ministry has submitted the final accounts and the estimates for the next year, and before the Diet could reach a decision concerning these matters, the Diet must be convened before the end of the year and within sufficient time for the final accounts and the estimates for the succeeding year to be considered therein before the close of the year.¹

ART. 7. His Majesty shall appoint the president and vice-president of the Table of Magnates from the members of that house; the secretaries shall be elected by the house from among its own members by secret ballot.²

ART. 8. As the Royal Table³ henceforth ceases to be an integral part of the House of Representatives, this house shall elect from among its own members, by secret ballot, a president, two vice-presidents and the secretaries.

The presidents of the two houses shall be chosen for the entire legislative period of the Diet; the other officials shall be chosen annually in the first sitting; in such sitting the oldest member of the Diet shall preside.

ART. 9. The presidents of the two houses shall receive salaries from the public treasury, the amount of which shall be fixed in the first annual session of the new Diet.²

ART. 10. The sittings of the two houses shall continue to be public. Each house shall make the regulations for the maintenance of the necessary peace and order in its deliberations, and of silence among those listening to its proceedings; the president is charged with the strict enforcement of such rules.

ART. 11. In this regard it is hereby provisionally directed that the audience shall in no way disturb the deliberations.

ART. 12. Should the audience or one of the persons present disturb the deliberations and the first warning of the president be without effect, the president may upon the second occasion, referring to the present law, order the expulsion of the audience or of a member thereof and the closing of the galleries.

ART. 13. After this is done the deliberations shall be continued upon the same day or later, as the majority decides, but always publicly.

ART. 14. Peace and order shall be maintained by sergeants-at-arms, with the assistance of the national guard if necessary.⁴

¹ As amended by Law 10 of 1867. The old Article 6 forbade the dissolution of the Diet before the budget had been voted.

² This point is now governed by Article 15 of Law 7 of 1885.

³ The Supreme Court of Hungary, which before 1848 formed part of the House of Representatives, its president presiding in that body.

⁴ The national guard has now been replaced by the regular army, organized by Laws 40 and 41 of 1868 and 6 of 1889.

ART. 15. In addition to the regulations contained in the foregoing sections, each house shall, in its first annual session, immediately adopt an order of business, in which the manner and form of deliberating and of voting and in general the internal affairs of the house shall be regulated. The part of this order of business which relates particularly to the order of deliberating may be altered only at the end of the annual session, after the close of the consideration of bills.¹

LAW 5 OF 1848.

ON THE ELECTION OF REPRESENTATIVES ON THE PRINCIPLE OF THE REPRESENTATIVE SYSTEM.²

ARTICLE 5. The House of Representatives shall consist of 453 members, who shall enjoy equal voting power, and who shall be elected in accordance with the apportionment made on the basis of population, territory and economic conditions.³

The Diet of the Kingdom of Croatia, Slavonia and Dalmatia shall elect 40 representatives.⁴

LAW 8 OF 1848.

ON EQUALITY IN REGARD TO TAXATION.

All the inhabitants of Hungary and its dependencies are subject without distinction, equally and proportionately, to all public charges.⁵

LAW 18 OF 1848.

ON THE PRESS.

The previous censorship being abolished forever, and the freedom of the press having been reestablished, the guaranty of this freedom shall be provisionally assured by the following stipulations:

ARTICLE 1. Every person can freely express and circulate his thoughts through the medium of the press. * * *

¹ French translation of the regulations of the two houses appears in F. MOREAU ET J. DELPECH, *Les Règlements des Assemblées législatives*, vol. 1 (Paris, 1906), pp. 482 and 515.

² See Law 33 of 1874 (p. 34).

³ As amended to 1881. The remainder of this law has been repealed. Law 24 of 1901 provides that a member of the House of Representatives shall not occupy any office or accept any position which is dependent upon the nomination or appointment of the Crown, the government, or the organs of government, and which carries with it a salary or compensation. From this rule are excepted the royal Hungarian ministers, undersecretaries of State and occupants of some other less important positions.

⁴ The Croatian members sit in the Hungarian Diet only for the consideration of matters common to Hungary and Croatia; these matters are principally finance, defense and the monetary system; in other matters the Croatian Diet legislates independently.

⁵ The rest of the law contains only transitory provisions.

LAW 20 OF 1848.**ON THE RELIGIOUS CULTS.¹**

ART. 2. Absolute equality and reciprocity are established without distinction in what concerns all the religious confessions legally recognized in this country.

LAW 33 OF 1874.**ON THE MODIFICATION AND AMENDMENT OF LAW 5 OF 1848, AND OF THE TRANSYLVANIAN LAW 2 OF 1848.****CHAPTER I.—QUALIFICATIONS OF VOTERS.²**

ARTICLE 1. With the exception of females, the right to vote in the election of representatives may be exercised by all native or naturalized citizens who have attained the age of 20 years and who possess the qualifications mentioned in Articles 1 and 2 of Law 5 of 1848 and in Articles 3 and 4 of the Transylvanian Law 2 of 1848 and more particularly specified in the subsequent articles.

ART. 2. In future the right to vote may no longer be exercised upon the basis of the privileges existing before the year 1848: however, those who were registered upon such basis in one of the lists of voters for representatives prepared between 1848 and 1872, inclusive, in conformity with Law 5 of 1848 and the Transylvanian Law 2 of 1848, shall personally remain in the exercise of this right.

ART. 3. In the royal free cities and in cities with an organized administration the right to vote shall belong to those who possess alone or jointly with their wives and minor children:

a. A house which, even if temporarily exempt from taxation, consists of at least three different parts, subject to the household tax; or

b. Land which is assessed on the basis of a net income of 16 florins.

ART. 4. In those sections of the country in which Law 5 of 1848 is effective, the right to vote shall belong to those who in the larger or smaller communes possess one fourth of an urbarial share³ or other land of an equal area either alone or jointly with their wives and

¹ Only Article 2 has been translated here, because it establishes a principle which may be regarded as constitutional. This principle has been developed by Law 53 of 1868. See DARESTE, *op. cit.*, p. 488, note 2.

² Only the first thirteen articles of this law have been given; the other articles (14–121) relate to proof of qualifications and to electoral procedure.

³ The urbarial system is a remnant of the older land tenures; it refers to lands released by the lords and cultivated by the peasants on their own account; the area of the urbarial share varies for different parts of the country.

minor children, it being immaterial in whose name this property is registered.

Lands upon which the tax imposed is equal to that of the most lightly taxed one-fourth urbarial share in the same commune shall be regarded as equal in size to one fourth of an urbarial share.

In case the urbarial system does not exist in a given commune, the most lightly taxed one-fourth urbarial share of any neighboring commune resembling the given commune most nearly in land values shall be taken as the standard.

In those parts of the provincialized military border which have been incorporated in the counties of Bács-Bodrogh, Temes, Torontal, and Krasso, and in the county of Szoerény, 10 joch of cultivated land, each of 3,200 square yards, shall be equal to one fourth of an urbarial share; in the counties of Middle Szolnok, Kraszna, and Zarand, in the Koevár district, in Jazygia and Cumania 8 joch of 2,400 square yards shall equal one fourth of an urbarial share.

Bottom land, gardens, vineyards, arable land and meadows shall be regarded as cultivated ground.

ART. 5. In those parts of the country in which the Transylvanian Law 2 of 1848 is in force, the right to vote may be exercised by those who in the larger or smaller communes:

a. Pay land taxes according to the present land-tax valuation on a net income of 84 florins, but if they own a house belonging in the first class of taxable property, on an income of 79 florins, 80 kreuzer, and if the house be rated in the second or a higher class, on an income of 72 florins, 80 kreuzer.

In case of the correction of the present valuation or of the adoption of a new valuation, the above-mentioned amounts of income shall be changed to agree with the change in ratio between the present assessments of apparent total net income from land in the Transylvanian districts and those of the altered valuation.

b. Or pay the public tax on a net annual income of not less than 105 florins, subject either to the land or house tax, or to the income tax of the first or third class.

In addition to those qualified in accordance with Law 12 of 1791, every commune which has at least 100 homesteads may also take part in the election of representatives through two informally chosen electors, smaller communes, however, having one elector.

ART. 6. The right to vote shall belong also to those:

a. Who possess a house, either alone or jointly with their wives and minor children, in the manner provided by Article 4, upon which the house tax has been assessed on an annual income of not less than 105 florins.

b. Who pay the public-land tax mentioned under *a*, or a tax on capital or on both land and capital, upon a net annual income of not less than 105 florins.

c. Who as merchants or manufacturers are taxed upon an annual income of not less than 105 florins.

d. Who in the royal free cities or in cities with an organized administration are taxed as artisans upon an annual income of not less than 105 florins.

e. Who in the larger or smaller communes pay the income tax for not less than one employee.

ART. 7. The right to vote shall belong also to those who pay the income tax on an annual income of not less than 105 florins, which, according to Law 26 of 1868, is rated in the first class; or who pay this tax on an annual income of not less than 700 florins under the provisions of the second class; moreover, those State, municipal, and communal officers may vote who pay the income tax on an annual income of not less than 500 florins under the provisions of the second class.

ART. 8. In cases covered by Articles 6 and 7, it is required that electors, to be entered on the voting lists in accordance with the provisions there mentioned, must have already been taxed in the preceding year upon an income not less than that fixed above.

ART. 9. Without regard to income, the following may vote in the electoral districts in which they have their fixed residence: The members of the Hungarian Academy of Sciences, professors, members of academies of fine arts, physicians, lawyers, notaries public, engineers, surgeons, druggists, graduates of agricultural schools, foresters and mining engineers, clergymen, chaplains, communal notaries, teachers and licensed kindergarten teachers.

It is required, however, that pastors and chaplains in order to exercise the right to vote shall actively officiate as such in some officially established congregation.

Professors, school teachers, kindergarten teachers and communal notaries, on the other hand, shall have the right to vote only in case they have been legally appointed or elected to their position or have been confirmed therein.

ART. 10. Persons under paternal authority, under guardianship, or under employers' authority, even though they possess one of the qualifications mentioned in the preceding section, shall not have the right to vote.

The apprentices of merchants and artisans and those employed in public or private service as servants or domestics shall be regarded as being under employers' authority.

Overseers of estates are not regarded as under such authority.

ART. 11. The right to vote shall not be exercised :

1. By soldiers in the army, sailors and members of the national guard, whether on active duty or temporarily on leave during their term of enlistment, but reservists and members of the national guard summoned in conformity with Article 36 of Law 40 of 1868 and Law 32 of 1873 for military inspection and temporary service are not included within this provision.

2. By members of the finance, customs and revenue police.

3. By members of the armed police.

4. By members of the State, municipal and communal police.

Therefore they shall not be registered in the lists of voters.

ART. 12. The right to vote shall not be exercised by those :

1. Who have been condemned to imprisonment on account of some crime or misdemeanor, or of some violation of the press laws mentioned in Articles 6 to 12 of Law 18 of 1848, during the continuance of such imprisonment.

2. Who, on the basis of a valid judicial finding, are being held for trial because of some crime or misdemeanor.

3. Who have been disqualified as voters by a regular judicial proceeding, during the time fixed by the judicial sentence.

4. Who have become bankrupt, until they are discharged.

Such persons shall, therefore, not be registered in the list of voters, even if otherwise entitled to vote.

The electors mentioned in Clauses 1, 2, 3 and 4, if otherwise entitled to vote, shall be registered in special lists and may by way of exception exercise the right to vote on proof of acquittal or of their discharge from bankruptcy by a valid judicial decision, or if they can furnish evidence by certificate from the competent authorities that they have served the full term of their sentence, or upon proof, by reference to the original judgment, that the term of their disabilities has expired ; such evidence to be submitted to the commission charged with the preparation and correction of the lists of voters or, finally, to the president of the election.

ART. 13. Every elector who has reached his twenty-fourth year shall be eligible as a representative, provided he is registered in the list of voters and is qualified in the Hungarian language, which in accordance with law is the legislative language.

Those sentenced after the present law has become operative by a regular judicial proceeding on account of murder, robbery, arson, larceny, concealment, forgery, fraud, fraudulent bankruptcy, or perjury shall not be eligible.

LAW 7 OF 1885.**ALTERING THE ORGANIZATION OF THE TABLE OF MAGNATES.¹****CHAPTER I.—THE ORGANIZATION OF THE TABLE OF MAGNATES.**

ARTICLE 1. Members of the Table of Magnates shall be those who have the right to sit and vote therein by virtue:

- a.* Of hereditary right.
- b.* Of their high rank or office.
- c.* Of their appointment for life by His Majesty the King.
- d.* Of election by the Diet of Croatia-Slavonia² in accordance with Law 15 of 1881.

ART. 2. By virtue of hereditary right the following shall be members of the Table of Magnates:

- a.* The archdukes of the royal family who are of full age.
- b.* All male members of 24 years of age of families which have heretofore had the right of membership in the Hungarian Table of Magnates or which had received from the Hungarian King the title of count or baron in Transylvania before the union of that principality with Hungary, if they alone or together with the wives and minor children living in a common household with them possess and enjoy or have a life interest or a family interest in trust in real estate within Hungarian territory, assessed upon the new cadaster of 1885 for the direct national land tax to an amount of not less than 3,000 florins, Austrian value, including therein the house taxes upon residences and industrial establishments attached to such real property.

With reference to families of magnates whose members, besides their rights in the Hungarian Upper House, have by birth or in some other manner a seat and vote in the legislature of another State of the monarchy or of any other country, it is provided that, if they possess the property qualification mentioned in Clause *b* of this Article by virtue of their real property located in Hungarian territory, their rights in the Hungarian Upper House shall not be exercised unless they deliver once for all to the president of the Royal Hungarian Ministry a declaration that they for themselves will exercise such right only in the Hungarian Upper House; this declaration shall be made within six months after the completion of the twenty-fourth year, and if such age has already been reached, before 1 July 1885.

The president of the ministry shall transmit this declaration to the president of the Table of Magnates within eight days after its

¹ Chaps. 2, 3 and 4 of this law are omitted; they contain provisions regarding the appointment of officers, order of business and other matters of less importance.

² Croatia-Slavonia elects 3 members of the Table of Magnates.

receipt, if the Diet is in session, and if it is not in session, within eight days after its assembling.

c. Hungarian citizens by birth and their legitimate male descendants in a direct line, upon whom His Majesty, upon the proposal of the Council of Ministers, has especially conferred the right of hereditary membership in the Table of Magnates, in addition to the corresponding title (duke, count, or baron).

Hungarian citizens who are not such by birth may be granted membership in the Upper House upon the proposal of the Council of Ministers only by means of legislation.

In either case the Council of Ministers may propose only Hungarian citizens of merit who have attained the age of 24 years, are of age and possess the property qualifications provided by this article.

ART. 3. If a member of one of the families designated in Clauses *b* and *c* of Article 2 does not possess the required property qualification, or loses it later, his right shall cease from that time but shall be revived if he afterward regains this qualification.

In the latter case the right may be exercised in the session following the one in which the qualification is established.

ART. 4. By virtue of their high rank or office, and during the continuance thereof, the following shall be members of the Table of Magnates:

A. *a.* The standard bearers of the Kingdom and the Count of Pozsony (Pressburg).

b. The two curators of the Crown.

c. The governor of Fiume.

d. The president and vice-president of the Supreme Court and the president of the Court of Appeals of Budapest.

B. Also by virtue of their high rank and of their offices the following shall be members of the Table of Magnates during the continuance of their ecclesiastical offices:

a. The Roman Catholic Church dignitaries of the Latin and Greek rite in the lands of the Hungarian Crown, viz., the Prince Primate of Hungary and the other archbishops, the bishops of dioceses, and the likewise royally appointed suffragans of Belgrade and Tinnin (Knin), and finally, the Archabbot of Pannonhalma (Martinsberg), the Provost of Jászó and the Prior of Auranién.

b. The dignitaries of the Oriental Greek Church: the Servian Patriarch, the Roumanian Metropolitan and the bishops of dioceses.

c. The three senior bishops of the Evangelical Reformed Church and of the Evangelical Church of the Augsburg Confession; the three senior superintendents of the Evangelical Reformed Church, taking into account the religious district of Transylvania, especially

the senior superintendent; the inspector general and the two senior direct inspectors of the Evangelical Church of the Augsburg Confession; and finally, one of the senior presidents, either bishop or superintendent, of the Unitarian Church.

ART. 5. Those whom His Majesty the King appoints, upon the proposal of the Council of Ministers, from among the citizens of all the countries of the Crown of St. Stephen, in recognition of merit and to increase the prestige of the Upper House thereby, shall be life members of the Table of Magnates.

As soon as the upper house is organized in accordance with the present law, the number of members appointed for life shall not exceed 30. In future such appointments shall take place gradually, and in no case shall more than five appointments be made in one year. The total number of life members shall never exceed 50.

ART. 6. The fact that a person is engaged in military service, is in the active performance of a civil or religious office, or is appointed to such a position, imposes no obstacle to the exercise of a right of membership in the Table of Magnates belonging to him, or to his being named a hereditary or life member thereof.

ART. 7. Should new offices or positions of high rank be created or should new bishoprics or ecclesiastical districts be established by the religious confessions mentioned in Article 4, such offices and positions shall not carry with them the right to a seat in the Table of Magnates, unless this is expressly provided by law.

ART. 8. The members designated by Article 1, Clause *d*, shall have the right to take part in the deliberations and voting only with reference to the matters common to the countries and provinces of the Hungarian Crown.

ART. 9. Without prejudice to the provision of Article 59 of Law 30 of 1868,¹ no person shall be a member of the Table of Magnates who does not satisfy the provisions of Article 1 of Law 44 of 1868, according to which Magyar is the only language of legislation.

ART. 10. Members of the Table of Magnates shall lose their membership in the following cases:

a. A member by virtue of his high rank or office, when he ceases to hold such office or position, because of voluntary resignation or of legal disciplinary or judicial proceedings.

b. A life member, when his resignation is accepted by His Majesty, upon the proposal of the Council of Ministers.

c. A member elected by the Diet of Croatia-Slavonia, when his term of election expires.

¹ The law which permits the members from Croatia-Slavonia to use their own language in the Hungarian Diet.

d. Any member, without reference to the legal basis of his membership, who may be condemned by the regular courts to prison or to imprisonment at hard labor, or for a crime or misdemeanor committed for the purpose of gain, or who has lost his citizenship.

ART. 11. The right is not lost but its exercise is suspended:

a. During the time for which a member has been condemned by the regular courts to a suspension of political rights on account of a crime or misdemeanor not coming within Article 10, Clause *d.*

b. During the period of bankruptcy of those who become bankrupt.

c. During the continuance of guardianship of those who have been placed under guardianship, except in cases of guardianship because of prodigality or absence.

d. For hereditary members, during the session in the course of which it is decided, in accordance with Article 19 of this law, that they have lost the property qualification of membership.

ART. 12. When a person, who is a member of the Table of Magnates by virtue of Article 4, Section A or Section B, Clauses *a* and *b*, or of Article 5, is elected a representative and accepts such election, he shall cease to be a member of the Table of Magnates; but as soon as the office of a representative is ended, those mentioned in Article 4, Section B, Clauses *a* and *b*, shall at once regain their membership in the Table of Magnates and may exercise it in the next session. The other members of the Table of Magnates mentioned in this paragraph may recover their membership in accordance with Articles 4 and 5.

Should the ecclesiastical and lay dignitaries mentioned in Article 4, Section B, Clause *c*, be elected as representatives and accept such election, the senior one of their colleagues who is not already a member of the Upper House shall take the place and hold it, while he lives and fills the office, even though the person, whose place he occupies, ceases to be a representative.

Should a hereditary member of the Table of Magnates be elected a representative and accept such election, he shall not exercise his rights of membership in the Table of Magnates during the term of his office as representative, and should he resign the office of representative during the course of a session, his membership in the Table of Magnates does not revive until the following session.

Every member of the Table of Magnates who is elected a representative is bound, after the verification of his election, to inform the president of the Table of Magnates whether or not he has accepted such election; the president shall bring this information to the knowledge of the House.

BELGIUM.

The Protocol of 21 June 1814¹ united Belgium with Holland, and the Constitutional Law of the Netherlands, promulgated on 27 August 1815,² was therefore common to the two countries until the Belgian Revolution of 25 August 1830. A National Congress of Belgians was convened on 10 November 1830, but even before it met, the provisional government of Brussels, by decrees of 6, 7, 8, 9 and 14 October 1830, named a committee of twelve to prepare an outline of a Constitution. This committee declared itself in favor of the adoption of a constitutional monarchy as the form of government. The National Congress proclaimed the independence of Belgium on 18 November,³ and adopted the monarchical form of government and the bicameral system of representation on 22 November. The Constitution was drafted on the basis of the outline adopted by the committee of twelve and was passed in its entirety on 7 February 1831, which is the date officially given to it, although it was not promulgated until 11 February.⁴ Leopold of Saxe-Coburg became King in June of the same year. The Belgian Constitution of 1831 remained unaltered for over 60 years, and proposals for its revision were rejected by large majorities in 1871, 1883 and 1887.

In 1892, however, the three powers of the State united in asking for the revision of 13 articles of the constitution, the special object of the reform being the electoral system of the two houses. New houses were elected on 14 June following, in conformity with Article 131 of the Constitution. A series of decrees, all dated 7 September 1893, promulgated the text of the revised articles.⁵

In accordance with a treaty signed at Brussels on 28 November 1907,⁶ the administration of Congo Free State was taken over by Belgium, and, by a royal decree of 4 November 1908, 15 November was fixed as the date for the actual assumption of the exercise of the sovereign rights. On 18 October 1908⁷ a separate Constitutional Law for the Congo was sanctioned by the King.⁸

¹ Signed at Vienna on 14 June and approved at Paris on 21 June. French text in MARTENS, *Nouveau Recueil*, supp., 1: p. 330; English translation in HERTSLET, *Map of Europe by Treaty*, vol. 1 (London, 1875), p. 40.

² French text in *British and Foreign State Papers*, 3: pp. 16-43, with Proclamation on pages 43-45.

³ French text of the Proclamation in *British and Foreign State Papers*, 17: p. 1241.

⁴ French text of the Proclamation in *British and Foreign State Papers*, 18: p. 1052.

⁵ French text of the decrees, each of which contains one revised article, in *British and Foreign State Papers*, 85: pp. 783-788.

⁶ French text in *British and Foreign State Papers*, 100: pp. 705-706.

⁷ French text of the Law of 18 October 1908 in *British and Foreign State Papers*, 101: pp. 733-742, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (Paris, 1910), vol. 1, pp. 98-104.

⁸ These introductory paragraphs are based on DARESTE, *op cit.*, pp. 73 and 96-97.

**CONSTITUTION OF 7 FEBRUARY 1831, WITH AMENDMENTS OF 7
SEPTEMBER 1893.¹**

TITLE I.—THE TERRITORY AND ITS DIVISIONS.

ARTICLE 1.² Belgium is divided into provinces.

These provinces are: Antwerp, Brabant, West Flanders, East Flanders, Hainaut, Liège, Limbourg, Luxembourg, Namur.

If there should be occasion for it, the territory may be divided by law into a greater number of provinces.

The colonies, possessions beyond the sea, or protectorates which Belgium may acquire shall be governed by special laws. The Belgian forces required for their defense shall be recruited only by voluntary enlistment.

ART. 2. Subdivisions of the provinces shall not be made except by law.

ART. 3. The boundaries of the State, of the provinces and of the communes shall not be changed or rectified except by law.

TITLE II.—BELGIAN CITIZENS AND THEIR RIGHTS.

ART. 4. Belgian nationality is acquired, retained and lost according to regulations established by the civil law.

The present Constitution and the other laws relating to political rights determine what other conditions are necessary for the exercise of these rights.

ART. 5. Naturalization is granted by the legislative power.

Full naturalization alone admits foreigners to equality with Belgians in the exercise of political rights.³

ART. 6. There shall be no distinction of classes in the State.

All Belgians are equal before the law; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

ART. 7. Individual liberty is guaranteed.

No one may be prosecuted except in cases provided for by law and in the form therein prescribed.

¹ Translation based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, pp. 126-148, which is based in part on the translation of J. M. VINCENT and A. S. VINCENT in the *Supplement to the Annals of the American Academy of Political and Social Sciences*, May, 1896 (Philadelphia, 1896), pp. 309-333. English translation (by Francis B. Lee) of the Constitution of 1831 without the amendments of 1893 appears in *Foreign Constitutions* [*The Convention Manual of the Sixth New York State Constitutional Convention, 1894*, part 2, vol. 3] (Albany, 1894), pp. 35-54. French translation in DARESTE, *op. cit.*, pp. 74-95, and PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 2-16.

² As amended 7 September 1893. The boundaries of the Kingdom of Belgium were definitively fixed by the treaty of 19 April 1839. The provision regarding colonies was introduced in 1893 to give the government power to administer the Congo Free State when it should become a Belgian possession.

³ Laws of 6 August 1881 and 25 March 1894.

Except when one is taken in the commission of an offense no one may be arrested without a warrant issued by a magistrate, which ought to be shown at the time of arrest, or at the latest within 24 hours thereafter.¹

ART. 8. No person shall be removed against his will from the jurisdiction of the judge to whom the law assigns him.

ART. 9. No penalty shall be established or enforced except by virtue of a law.

ART. 10. The private domicile is inviolable; no search of premises shall take place except in the cases provided for by law and according to the form therein prescribed.

ART. 11. No one may be deprived of his property except for a public purpose and according to the forms established by law, and in consideration of a just compensation previously determined.

ART. 12. Punishment by confiscation of property shall not be established.

ART. 13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be reestablished.²

ART. 14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed, with the reservation of power to suppress offenses committed in the use of these liberties.

ART. 15. No one shall be compelled to join in any manner whatever in the forms or ceremonies of any religious denomination, nor to observe its days of rest.

ART. 16. The State shall not interfere either in the appointment or in the installation of the ministers of any religious denomination whatever, nor shall it forbid them to correspond with their superiors or to publish their proceedings, subject, in the latter case, to the ordinary responsibility of the press and of publication.

Civil marriage shall always precede the religious ceremony, except in cases to be established by law if found necessary.

ART. 17. Private instruction shall not be restricted; all measures interfering with it are forbidden; the repression of offenses shall be regulated by law.

Public instruction given at the expense of the State shall likewise be regulated by law.³

ART. 18. The press is free; no censorship shall ever be established; no security shall be exacted of writers, publishers, or printers.⁴

¹ Law of 20 April 1874, amended 30 May 1889.

² *La mort civile* is abolished as a punishment by itself. The condition follows as a secondary consequence of condemnation to death, hard labor, or transportation for life.

³ Laws of 20 September 1884 and 15 September 1895 on primary instruction; Law of 1 June 1850 on secondary education, amended 15 June 1881; Laws of 27 September 1835 and 15 July 1849 on higher education; and Laws of 10 April 1890 and 3 July 1891 on the conferring of academic degrees.

⁴ See also Articles 96 and 98 which relate to trials of offenses of the press.

In case the writer is known and is a resident of Belgium, the publisher, printer, or distributor shall not be prosecuted.

ART. 19. Belgians have the right, without previous authorization, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

ART. 20. Belgians have the right of association; this right shall not be restricted by any preventive measure.

ART. 21. Anyone has the right to address petitions to the public authorities, signed by one or more persons.

Legally organized bodies alone have the right to petition under a collective name.

ART. 22. The privacy of correspondence is inviolable. The law shall determine who are the agents responsible for the violation of the secrecy of letters entrusted to the post.

ART. 23. The use of the languages spoken in Belgium is optional. This matter may be regulated only by law and only for acts of public authority and for judicial proceedings.¹

ART. 24. No previous authorization is necessary to bring action against public officials for the acts of their administration, except as provided for ministers.²

TITLE III.—CONCERNING POWER.

ART. 25. All powers emanate from the people.

They shall be exercised in the manner established by the Constitution.

ART. 26. The legislative power shall be exercised collectively by the King, the House of Representatives and the Senate.

ART. 27. Each of the three branches of the legislative power shall have the right of initiative.

Nevertheless, all laws relating to the revenues or expenditures of the State or to the army contingent must be voted first by the House of Representatives.

ART. 28. The authoritative interpretation of the laws shall belong only to the legislative power.

ART. 29. The executive power is vested in the King, subject to the regulations of the Constitution.

ART. 30. The judicial power shall be exercised by the courts and the tribunals.

Decrees and judgments shall be executed in the name of the King.

¹ Laws and royal decrees are published in French in the *Moniteur*; the French text is the only official text. Flemish may be used in some official documents (see DARESTE, *op. cit.*, p. 77, note 1).

² See below, Articles 63, 90 and 134.

ART. 31. Exclusively communal or provincial affairs shall be regulated by the communal or provincial councils, according to the principles established by the Constitution.

CHAPTER I.—THE HOUSES.

ART. 32. The members of the two houses shall represent the nation, and not the province alone, nor the subdivision of the province which elected them.

ART. 33. The sessions of the houses shall be public.

Nevertheless each house may resolve itself into a secret committee upon the demand of its president or of 10 members.

It shall then decide by vote of an absolute majority whether the session shall be resumed in public upon the same subject.

ART. 34. Each house shall judge of the qualifications of its own members, and shall decide all contests which arise upon that subject.

ART. 35. No person shall at the same time be a member of both houses.

ART. 36. Any member of either of the two houses, who shall be appointed by the government to any other salaried office except that of minister, and who accepts the same, shall vacate his seat immediately, and may resume his duties only by virtue of a new election.¹

ART. 37. At each session, each of the houses shall elect its president, its vice president, and shall form its bureau.²

ART. 38. An absolute majority of the votes shall be necessary to pass any resolution except as otherwise established by the rules of the houses in regard to elections and nominations.³

In case of an equal division of votes, the proposition under consideration is rejected.

Neither of the two houses shall pass a resolution unless a majority of its members are present.

ART. 39. The votes shall be viva voce or by rising and sitting; the vote on a law as a whole shall always be by roll call and viva voce. The election and nomination of candidates shall be by secret ballot.

ART. 40. Each house has the right to investigate the conduct of public affairs.⁴

ART. 41. A proposed law shall not be passed by either of the houses unless it has been voted upon article by article.

ART. 42. The houses have the right to amend and to divide the articles and amendments proposed.

¹ As amended 7 September 1893. By the original article ministers were also required to seek reelection. The principle laid down in this article is developed in Articles 238 and 239 of the Electoral Law (1894).

² The term "bureau" is used to refer to all other officers of the legislative body, e. g., secretaries, etc.

³ For questions requiring a two-thirds vote, see Articles 61, 62 and 131.

⁴ Law of 3 May 1880 to regulate the form of parliamentary investigations.

ART. 43. To present petitions in person to the houses is forbidden.

Each house has the right to send to the ministers the petitions which are addressed to it. The ministers are obliged to give explanations upon the contents of such petitions whenever the house demands.

ART. 44. No member of either house shall be arrested or prosecuted on account of opinions expressed or votes cast by him in the performance of his duties.

ART. 45. No member of either house shall during the continuance of the session be prosecuted or imprisoned after trial, except by the authority of the house of which he is a member, unless he be apprehended in the commission of an offense.

No member of either house shall be arrested during the session, except by the same authority.

The detention or the prosecution of a member of either house shall be suspended during the session and for the entire term, if the house so demands.

ART. 46. Each house shall determine by its own rules the manner in which it is to exercise its powers.¹

SECTION 1.—THE HOUSE OF REPRESENTATIVES.

ART. 47.² The members of the House of Representatives shall be chosen by direct election under the following regulations:

One vote is allotted to citizens who have reached the age of 25 years, resident for at least one year in the same commune, and who are not otherwise excluded by law.

One additional vote is allotted in consideration of any one of the following conditions:

1. Having reached the age of 35 years, being married or a widower with legitimate offspring, and paying to the State a tax of not less than 5 francs as a householder, unless exempt on account of his profession.

2. Having reached the age of 25 years and being the owner either of real estate of the value of at least 2,000 francs, said value to be rated on the basis of the cadastral assessment, or possessing income from land corresponding to such valuation, or being inscribed in the great book of the public debt, or possessing obligations of the Belgian government savings bank bearing at least 100 francs interest.

These inscriptions and bank books must have belonged to the holder for at least two years.

¹ See F. MOREAU ET J. DELPECH, *Les Règlements des Assemblées Législatives*, vol. 1 (Paris, 1906), pp. 617 and 637.

² As amended 7 September 1893. Elections of representatives are regulated by Laws of 12 April and 28 June 1894, as modified by Laws of 11 June 1896, 31 March 1898, 29 December 1899, and 18 April 1902. Proportional representation was introduced by the Law of 29 December 1899.

The property of the wife is counted with that of the husband; that of minor children with that of the father.

Two additional votes are allotted to citizens who have reached the age of 25 years and who fulfill the following conditions:

a. Holding a diploma from an institution of higher instruction, or an indorsed certificate showing the completion of a course of secondary education of the higher degree, without distinction between public or private institutions.

b. Filling or having filled a public office, holding or having held a position, practicing or having practiced a private profession which presupposes that the holder possesses at least the knowledge imparted in secondary instruction of the higher degree. These offices, positions, and professions, likewise the time during which they must have been held or practiced, shall be determined by law.

No one shall have more than three votes.

ART. 48.¹ The constitution of the electoral colleges shall be regulated by law for each province.

Voting is obligatory; it shall take place in the commune, when not otherwise determined by law.

ART. 49. The number of representatives shall be determined by law, according to the population; this number shall not exceed the proportion of one representative for 40,000 inhabitants. The qualifications of an elector and the process of election shall also be determined by law.

ART. 50. To be eligible it is necessary:

1. To be a Belgian citizen by birth, or to have received full naturalization.

2. To enjoy civil and political rights.

3. To have reached the age of 25 years.

4. To be a resident of Belgium.

No other condition of eligibility shall be required.

ART. 51.² The members of the House of Representatives shall be elected for a term of four years; one half being elected every two years, in the order determined by the electoral law.

In case of dissolution, the House shall be entirely renewed.

ART. 52. Each member of the House of Representatives shall receive an annual compensation of 4,000 francs.

He shall have, in addition, the right of free transportation upon all State and concessionary railways from the place of his residence to the city where the session is held.

¹ As amended 7 September 1893. The obligation of voting is sanctioned by Article 223 of the Electoral Code. In the legislative elections of 1900, the proportion of absentees averaged 6 per cent.

² As amended 7 September 1893.

SECTION II.—THE SENATE.

ART. 53.¹ The Senate shall be composed:

1. Of members elected according to the population of each province, conformably to Article 47; though the law may require that the electors shall have reached the age of 30 years. The provisions of Article 48 are applicable to the election of senators.

2. Of members elected by the provincial councils, to the number of two for each province having less than 500,000 inhabitants, of three for each province having from 500,000 to 1,000,000 inhabitants, and of four for each province having more than 1,000,000 inhabitants.

ART. 54.² The number of senators to be elected directly by the voters shall be equal to one half the number of members of the House of Representatives.

ART. 55. Senators shall be elected for a term of eight years; one half being elected every four years in the order determined by the electoral law.

In case of dissolution, the Senate shall be entirely renewed.

ART. 56.³ In order to be elected and to remain a senator, it shall be necessary:

1. To be a Belgian citizen by birth, or to have received full naturalization.

2. To enjoy civil and political rights.

3. To be a resident of Belgium.

4. To be at least 40 years of age.

5. To pay into the treasury of the State at least 1,200 francs of direct taxes, including licenses.

Or to be either the proprietor or the usufructuary of real estate situated in Belgium, the assessed income of which amounts to at least 12,000 francs.

In the provinces where the number of those eligible does not reach the proportion of one for every 5,000 inhabitants, the list shall be completed by the addition of as many of the highest taxpayers of the province as may be necessary to make this proportion. The citizens on this supplementary list are eligible only in the province where they reside.

ART. 56 *bis*.⁴ The senators elected by the provincial councils shall be exempt from all property qualification; they shall not be members

¹As amended 7 September 1893. The election of senators by the provincial councils is an innovation of the reform of 1893. According to the electoral lists for 1906–1907, the number of senatorial electors was 1,356,542, and that of the supplementary votes was 887,250.

²As amended 7 September 1893. The Law of 18 April 1902 raised the number of senators directly elected by the electoral body to 83 and of those elected by the provincial councils to 27.

³As amended 7 September 1893.

⁴Added 7 September 1893.

of the assembly which elects them, nor have been members of it during the year of the election nor during the two preceding years.

ART. 57. Senators shall receive neither salary nor emolument.

ART. 58.¹ The sons of the King, or if there be none, the Belgian princes of the branch of the royal family designated to succeed to the throne, shall be by right senators at the age of 18 years. They shall have no deliberate vote until the age of 25.

ART. 59. Every meeting of the Senate which may be held at any other time than during the session of the House of Representatives shall be null and void.

CHAPTER II.—THE KING AND THE MINISTERS.

SECTION I.—THE KING.

ART. 60.² The constitutional powers of the King are hereditary in the direct descendants, natural and legitimate, of His Majesty Leopold George Christian Frederick of Saxe-Coburg, from male to male, in the order of primogeniture, and to the perpetual exclusion of females and of their descendants.

The prince who shall marry without the consent of the King, or of those who in his absence exercise his authority as provided by the Constitution, shall forfeit his rights to the crown.

Nevertheless, with the consent of the two houses, he may be relieved of this forfeiture by the King or by those who, in his absence, exercise his authority according to the Constitution.

ART. 61.³ In default of male descendants of His Majesty Leopold George Christian Frederick of Saxe-Coburg, the King may name his successor, with the consent of the houses expressed in the manner prescribed by the following article.

If no nomination has been made after the manner described below, the throne will be vacant.

ART. 62. The King shall not at the same time be the head of another State, without the consent of the two houses.⁴

Neither of the houses shall deliberate upon this matter unless two thirds, at least, of the members who compose it are present, and the resolution must be adopted by at least two thirds of the votes cast.

ART. 63. The person of the King is inviolable; his ministers are responsible.

ART. 64. No decree of the King shall take effect unless it is countersigned by a minister, who, by that act alone, renders himself responsible for it.

¹ As amended 7 September, 1893.

² Paragraphs 2 and 3 were added 7 September 1893.

³ As amended 7 September 1893. Only the form of this article was changed.

⁴ King Leopold II was authorized by the House of Representatives (28 April 1885) and the Senate (30 April 1885) to be the sovereign of the Congo Free State.

Art. 65. The King appoints and dismisses his ministers.

Art. 66. He confers the grades in the army.¹

He appoints the officers of the general administration and for foreign relations, except as otherwise established by law.

He appoints other governmental officials only by virtue of an express provision of law.

Art. 67. He shall issue all regulations and decrees necessary for the execution of the laws, without power to suspend the laws themselves, or to dispense with their execution.

Art. 68. The King commands the forces both by land and sea, declares war, makes treaties of peace, of alliance and of commerce. He shall give information to the two houses of these acts as soon as the interests and safety of the State permit, adding thereto suitable comments.

Treaties of commerce, and treaties which may burden the State, or bind Belgians individually, shall take effect only after having received the approval of the two houses.

No cession, exchange or addition of territory shall take place except by virtue of a law. In no case shall the secret articles of a treaty be destructive of those openly expressed.

Art. 69. The King approves and promulgates the laws.²

Art. 70. The houses shall assemble each year, the second Tuesday in November, unless they shall have been previously summoned by the King.

The houses shall remain in session at least 41 days each year.

The King promulgates the closing of the session.

The King shall have the right to convene the houses in extraordinary session.

Art. 71. The King shall have the right to dissolve the houses either simultaneously or separately. The act of dissolution shall order a new election within 41 days and summon the houses within two months.

Art. 72. The King may adjourn the houses. In no case shall the adjournment exceed the term of one month, nor shall it be renewed in the same session, without the consent of the houses.

Art. 73. He shall have the right to remit or reduce the penalties pronounced by the judges of courts, except such as are fixed by law in the case of ministers.

Art. 74. He shall have the right to coin money, in accordance with the law.

Art. 75. He shall have the right to confer titles of nobility, but without the power of attaching to them any privileges.

¹ The article in the original constitution as contained in the laws of 17 June 1830, *see* *Recueil des lois*, 1830, p. 100.

² *Id.* p. 100, 101.

ART. 76. He may confer military orders in accordance with the provisions of the law.

ART. 77. The civil list shall be fixed by law for the duration of each reign.¹

ART. 78. The King shall have no other powers than those which the Constitution and the special laws, enacted under the Constitution, formally confer upon him.

ART. 79. At the death of the King the houses shall assemble without a summons, at the latest on the tenth day after his decease. If the houses shall have been previously dissolved, and if in the act of dissolution the reassembling had been fixed for a day later than the tenth day, the former members shall resume their duties until the assembling of those who should replace them.

If only one house shall have been dissolved, the same rule shall be followed with regard to that house.

From the date of the death of the King and until the taking of the oath by his successor to the throne, or by the agent, the constitutional powers of the King shall be exercised, in the name of the Belgian people, by the ministers united in council, and upon their responsibility.

ART. 80. The King is of age when he shall have completed the age of 18 years.

He shall not take possession of the throne until he shall have solemnly taken, before the united houses, the following oath:

I swear to observe the Constitution and the laws of the Belgian people, to maintain the national independence and the integrity of the territory.

ART. 81. If, at the death of the King, his successor is a minor, the two houses shall unite in one assembly, for the purpose of providing for the regency and guardianship.

ART. 82. If the King becomes incapacitated to reign, the ministers, after having ascertained this incapacity, shall immediately convene the houses. The houses shall provide for the regency and guardianship.

ART. 83. The regency shall be conferred upon only one person.

The regent shall enter upon his duties only after having taken the oath prescribed by Article 80.

ART. 84. No change in the Constitution shall be made during a regency.

ART. 85. In case there is a vacancy of the throne, the houses deliberating together shall arrange provisionally for the regency, until the first meeting of the houses after they have been wholly renewed.

¹ The civil list of the present King, Albert, was fixed by law of 30 December 1909 at 3,300,000 francs.

That meeting shall take place at the latest within two months. The new houses deliberating together shall provide definitely for the vacancy.

SECTION II.—THE MINISTERS.

ART. 86. No person shall be a minister unless he is a Belgian by birth, or has received full naturalization.

ART. 87. No member of the royal family shall be a minister.

ART. 88. Ministers shall have no deliberative vote in either house unless they are members of it.

They shall have admission to either house, and are entitled to be heard when they so request.

The houses shall have the right to demand the presence of ministers.

ART. 89. In no case shall the verbal or written order of the King relieve a minister of responsibility.

ART. 90. The House of Representatives shall have the right to accuse ministers and to arraign them before the Court of Cassation, which, sitting in full bench, alone shall have the right to judge them, except in such matters as shall be established by law respecting a civil suit by an aggrieved party and respecting crimes and misdemeanors committed by ministers when not in the performance of their official duties.

The law shall determine the responsibility of ministers, the penalties to be imposed upon them, and the method of proceeding against them, whether upon accusation made by the House of Representatives or upon prosecution by the aggrieved parties.¹

ART. 91. The King shall not have power to grant pardon to a minister sentenced by the Court of Cassation except upon request of one of the two houses.

CHAPTER III.—THE JUDICIAL POWER.

ART. 92. Actions which involve questions of civil right belong exclusively to the jurisdiction of the courts.

ART. 93. Actions which involve questions of political rights belong to the jurisdiction of the courts, except as otherwise determined by law.

ART. 94. No tribunal nor contentious jurisdiction shall be established except by virtue of a law.² No commissions or extraordinary tribunals under any title whatever shall be established.

ART. 95. There shall be a Court of Cassation for the whole of Belgium.³

¹ See below, Article 134.

² Law of 18 June 1869 on the organization of the judiciary, amended 1 April 1879.

³ The composition of the Court of Cassation is governed by the Law of 18 June 1869. Its principal attributions are fixed by the Laws of 7 July 1865 and 25 March 1876.

This court shall not consider questions of fact except in the trial of ministers.

ART. 96. The sessions of the courts shall be public, unless this publicity is declared by a judgment of the court to be dangerous to public order or morals.

In cases of political offenses and offenses of the press closed doors shall be enforced only by a unanimous vote of the court.

ART. 97. Every judgment shall be pronounced in open court, and the reasons therefor stated.

ART. 98. The right of trial by jury shall be established in all criminal cases and for all political offenses and offenses of the press.

ART. 99. The justices of the peace and the judges of courts shall be appointed directly by the King.

The members of the courts of appeal and the presidents and vice presidents of the courts of original jurisdiction shall be appointed by the King from two double lists, presented the one by these courts and the other by the provincial councils.

The members of the Court of Cassation shall be appointed by the King from two double lists presented one by the Senate and one by the Court of Cassation.

In both cases the candidates named upon one list may be named also upon the other.

All the names shall be published at least 15 days before the appointment.

The courts shall choose their presidents and vice presidents from among their own number.

ART. 100. Judges shall be appointed for life.

No judge shall be deprived of his office or suspended until after trial and judgment.

The removal of a judge from one place to another shall take place only by means of a new appointment and with his consent.

ART. 101. The King appoints and removes the State officials serving in the courts and tribunals.

ART. 102. The salaries of the members of the judiciary shall be fixed by law.

ART. 103. No judge shall accept from the government any salaried office, unless he perform the duties thereof gratuitously, and not then if it is contrary to the law of incompatibility.¹

ART. 104. There shall be three courts of appeal in Belgium.

Their jurisdiction and the places where they shall be held shall be determined by law.

ART. 105. Special laws shall govern the organization of military tribunals, their powers, the rights and obligations of the members of these tribunals and the duration of their functions.²

¹ Laws of 26 May 1848 and 18 June 1869.

² Law of 15 June 1909.

There shall be commercial courts in places which shall be designated by law. Their organization, powers, the method of appointment of their members, and the duration of their term of office shall also be determined by law.

ART. 106. The Court of Cassation shall decide conflicts of jurisdiction, according to the method prescribed by law.

ART. 107. The courts and tribunals shall enforce executive decrees and ordinances, whether general, provincial, or local, only so far as they shall conform to the laws.

CHAPTER IV.—PROVINCIAL AND COMMUNAL INSTITUTIONS.

ART. 108. Provincial and communal institutions shall be regulated by law.

The law shall establish the application of the following principles:

1. Direct election, except in the cases which may be established by law with regard to the chiefs of the communal administration and government commissioners acting in the provincial councils.

2. The relegation to provincial and communal councils of all provincial and communal affairs, without prejudice to the approval of their acts in the cases and according to the procedure determined by law.

3. The publicity of the sittings of the provincial and communal councils within the limits established by law.

4. The publicity of budgets and of accounts.

5. The intervention of the King or of the legislative power to prevent provincial and communal councils from exceeding their powers and from acting against the general welfare.

ART. 109. The keeping of the civil register is exclusively the duty of the communal authorities.

TITLE IV.—FINANCES.

ART. 110. No tax for the benefit of the State shall be imposed except by law.

No provincial charge or tax shall be imposed without the consent of the provincial council.

No communal charge or tax shall be imposed without the consent of the communal council.

The law shall determine the exceptions which experience shall show to be necessary in regard to provincial and communal taxes.

ART. 111. Taxes for the benefit of the State shall be voted annually.

The laws which impose such taxes shall remain in force for one year only unless they are reenacted.

ART. 112. No privilege shall be established with regard to taxes. No exemption or abatement of taxes shall be established except by law.

ART. 113. Beyond the cases expressly excepted by law, no payment shall be exacted of any citizen other than taxes levied for the benefit of the State, of the province, or of the commune. No change shall be made in the existing system of *polders*¹ and *wateringen*² which remain subject to ordinary legislation.

ART. 114. No pension or gratuity shall be paid out of the public treasury without the authority of law.

ART. 115. Each year the houses shall enact the law of accounts and vote the budget.

All the receipts and expenditures of the State shall be contained in the budget and in the accounts.

ART. 116. The members of the Court of Accounts shall be appointed by the House of Representatives, and for a term fixed by law.

This court shall be entrusted with the examination and settlement of the accounts of the general administration and of all persons accountable to the public treasury. It shall see that no item of the expenditures of the budget is overdrawn and that no transfer takes place. It shall audit the accounts of the different administrative organs of the State, and shall gather for this purpose all information and all necessary vouchers. The general accounts of the State shall be submitted to the House with the comments of the Court of Accounts.

This court shall be organized by a law.³

ART. 117. The salaries and pensions of the ministers of religion shall be paid by the State; the sums necessary to meet this expenditure shall be entered annually in the budget.⁴

TITLE V.—THE PUBLIC FORCE.

ART. 118. The method of recruiting the army shall be determined by law. The laws shall also regulate the promotion, the rights and the duties of soldiers.⁵

¹ Polders are lands reclaimed from the sea by dikes. The owners of these lands are grouped into associations for the maintenance of the dikes and are required by law to bear the expense of such maintenance.

² Wateringen are associations formed for the purpose of irrigating and draining lands reclaimed from the sea. They have power to raise funds by taxing the lands affected by such improvements.

³ Law of 29 October 1846.

⁴ This clause is interpreted to apply only to the denominations recognized by law in Belgium in 1830; these are the Catholic, Protestant Evangelical, Anglican and Jewish; almost the whole of the Belgian population is Catholic. No minister is entitled to a salary (1) if he must receive license from a person practicing a profession without legal authorization, (2) if, being a foreigner, he performs the ministerial functions without the permission of the government.

⁵ The organization of the Belgian army is governed by the Laws of 5 April 1868, 2 June 1870, 16 August 1873 and 21 March 1902.

ART. 119. The army contingent shall be voted annually. The law which fixes it shall remain in force for one year only, unless re-enacted.

ART. 120. The organization and the attributions of the armed police shall be regulated by a law.¹

ART. 121. No foreign troops shall be admitted into the service of the State, to occupy or to cross its territory except by virtue of a law.

ART. 122. There shall be a citizen militia, the organization of which shall be regulated by law.²

The officers of all grades, at least as high as that of captain, shall be chosen by the militia, with such exceptions as may be judged necessary for accountants.

ART. 123. The militia shall not be brought into active service except by virtue of a law.

ART. 124. Soldiers shall not be deprived of their grades, honors, or pensions except in the manner prescribed by law.³

TITLE VI.—GENERAL PROVISIONS.

ART. 125. The Belgian nation adopts for its colors, red, yellow and black, and for the coat of arms of the Kingdom, the Belgian lion, with the motto, "Union Gives Strength."

ART. 126. The city of Brussels is the capital of Belgium and the seat of government.

ART. 127. No oath shall be imposed except by virtue of law. The form of the oath shall also be determined by law.

ART. 128. Every foreigner within the territory of Belgium shall enjoy protection of his person and property, except as otherwise established by law.

ART. 129. No law, ordinance, or regulation of the general, provincial, or communal government shall be obligatory until after having been published in the manner prescribed by law.⁴

ART. 130. The Constitution shall not be suspended, either in whole or in part.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

ART. 131. The legislative power has the right to declare that a revision of such constitutional provisions as it shall designate is in order.

After this declaration, the two houses are *ipso facto* dissolved.

¹ This law does not exist: the old regulations are still in force.

² Law of 9 September 1897.

³ Three Laws of 16 June 1830.

⁴ See Article 69.

Two new houses shall then be summoned, in conformity with Article 71.

These houses, with the approval of the King, shall then act upon the points submitted for revision.

In this case the houses shall not deliberate unless at least two thirds of the members of each are present, and no amendment shall be adopted unless it is supported by at least two thirds of the votes.

TITLE VIII.—TEMPORARY PROVISIONS.

ART. 132. For the first choice of a head of the State the first provision of Article 80 may be neglected.

ART. 133. Foreigners established in Belgium before 1 January 1814, and who continue to reside therein, shall be considered Belgians by birth, upon condition that they declare their intention to take advantage of this provision.

Such declaration shall be made within six months after this Constitution goes into effect, if the foreigners are of age, and if they are minors, within the year after attaining their majority.

This declaration shall be made before the provincial authority of the province where they reside.

It shall be made in person or by an agent having a special and authentic authorization.

ART. 134. Until further provision by law, the House of Representatives shall have discretionary power to accuse a minister, and the Court of Cassation to try him, find the offense and fix the penalty.

Nevertheless the penalty shall not extend farther than removal from office, without prejudice to the cases expressly provided for by the penal laws.¹

ART. 135. The personnel of the courts shall be maintained as it now exists, until further provision has been made by law.

Such a law shall be enacted during the first legislative session.

ART. 136. A law, passed during the first legislative session, shall provide for the manner of the first nomination of members of the Court of Cassation.²

ART. 137. The fundamental law of 24 August 1815 and the provincial and local statutes are abolished. However, the provincial and local authorities shall retain their powers until a law shall make other provision.

ART. 138. As soon as this Constitution goes into effect, all laws, decrees, orders, regulations and other instruments contrary thereto are abrogated.

¹ This transitory legislation is still in force, no organic law having determined the cases of ministerial responsibility.

² Article 99 provides for subsequent appointments.

SUPPLEMENTARY PROVISION.

ART. 139. The National Congress declares that it is necessary provide for the following objects, by separate laws and as soon possible:

1. The press.¹
2. The organization of the jury.²
3. The finances.³
4. Provincial and communal organization.⁴
5. The responsibility of ministers ⁵ and of other officers.
6. The judicial organization.⁶
7. The revision of the pension list.
8. Measures proper to prevent the abuse of cumulative office holding.
9. The revision of the laws of bankruptcy and of suspension.
10. The organization of the army, the rights of advancement and of retirement and the military penal code.⁷
11. The revision of the codes.⁸

¹ Decree of 20 July 1831, amended by the Penal Code in many of its provisions.

² See above, Article 94.

³ Law of 15 May 1846 on the compatibility of the State.

⁴ See above, Article 108.

⁵ See above, Article 134.

⁶ See above, Article 94.

⁷ Military Penal Code of 27 May 1870. See above, Article 118.

⁸ Penal Code of 8 June 1867. Code of French Commerce has been revised entirely successive laws, the last of which bears the date of 25 August 1891. Title I of the preliminary book of the new Code of Civil Procedure was promulgated on 25 March 1876. Law of 17 April 1878 contains the preliminary title of the new Code of Penal Procedure. Rural Code of 7 October 1886.

BRAZIL.

Until 1815 Brazil was a Portuguese colony. The invasion of Portugal by Napoleon in 1807 forced the royal family to seek refuge in Brazil, which continued for several years to be the seat of government of the Kingdom. By decree of 16 December 1815, Brazil ceased to be a colony and became an integral part of the "Kingdom of Portugal, Brazil and Algarves." The revolution which broke out in Portugal in 1821 forced King John VI to return to Lisbon, leaving his son, Dom Pedro, as regent. The sentiment in favor of separation had been growing for some time, and when orders were sent to Dom Pedro to return to Portugal he declared his intention of remaining in Brazil. Brazilian independence was declared, Dom Pedro became Emperor on 12 October 1822 and an imperial Constitution was promulgated on 25 March 1824.¹ Portugal recognized the independence of Brazil in 1825.

The movement for the establishment of a republic began to gain strength after 1870, but was held in check by the popularity of Dom Pedro II. In 1889, however, the republicans felt strong enough for action. On 15 November of that year a bloodless revolution occurred, the Republic of the United States of Brazil was proclaimed, and the imperial family was sent to Portugal. The revolution was essentially a military movement and for several years Brazil remained under the control of a military party. A republican Constitution was adopted on 24 February 1891, which established a federal government and erected the former Provinces into States. This Constitution is still in force and has never been amended.²

CONSTITUTION OF 24 FEBRUARY 1891.³

[PREAMBLE.]

We, the representatives of the Brazilian people, assembled in constitutional convention for the purpose of organizing a free and demo-

¹ English translation by J. C. BRANNER in *Foreign Constitutions* [*The Convention Manual of the Sixth New York State Constitutional Convention, 1894*, part 2, vol. 3] (Albany, 1894), pp. 72-105.

² These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. I, p. 149, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. I, pp. 624-626.

³ Official Portuguese text published in the *Diário Oficial* of 25 February 1891. Portuguese text and English translation in parallel columns, followed by a Spanish translation in J. I. RODRIGUEZ, *American Constitutions*, vol. 1 (Washington, 1906), pp. 134-190. French translation in DARESTE, *op. cit.*, pp. 626-655. German translation in PAUL POSSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 1022-1045. English translation in DODD, *op. cit.*, pp. 150-181; *British and Foreign State Papers*, 83: pp. 487-510; and *Foreign Constitutions* (see above, note 1), pp. 113-138. The translation given here is based on the one in RODRIGUEZ.

cratic government, do hereby establish, decree and promulgate the following Constitution for the Republic of the United States of Brazil.

TITLE I.—THE FEDERAL ORGANIZATION.

PRELIMINARY PROVISIONS.

ARTICLE 1. The Brazilian nation adopts for its government the federal republican representative form, as proclaimed on 15 November 1889, and constitutes itself, by the perpetual and indissoluble union of its former provinces, into the United States of Brazil.

ART. 2. Each of the former provinces shall constitute a State,¹ and the former neutral municipal district shall form the Federal District,² and shall continue to be the capital of the Union until the provisions of the following article shall be put into effect.

ART. 3. A zone of fourteen thousand four hundred square kilometers, situated in the central plateau of the Republic, which shall be hereafter marked off, shall be set apart, as property of the Union, and on this site the future federal capital shall be established.

SOLE §. When the transfer of the capital has been effected, the present Federal District shall constitute a State.

ART. 4. The States may become incorporated one with another, may subdivide or dismember themselves to annex themselves to others or to form new States, if the respective legislative assemblies consent thereto in two successive annual sessions, and if the National Congress gives its approval.

ART. 5. Each State shall, at its own expense, provide for the needs of its own government and administration; the Union, however, shall lend aid to a State which asks for assistance in case of public calamity.

ART. 6. The federal government shall not interfere in matters pertaining peculiarly to the States, save:

1. To repel foreign invasion, or the invasion of one State by another.
2. To maintain the federal republican form of government.
3. To reestablish order and tranquillity in the States, upon the requisition of their respective governments.
4. To secure the execution of the federal laws and judgments.

ART. 7. It is the exclusive prerogative of the Union to decree:

¹ See the list of twenty States (not including the Federal District), p. 66, note under Article 28, Section 1.

² The District here referred to, embracing 540 square miles on the southeastern coast, is still the capital of the Union.

1. Duties on imports from foreign countries.
2. Entry, clearance, and port dues of vessels; but the coastwise trade shall be free to domestic and foreign merchandise which has already paid an import duty.
3. Stamp duties, save the restriction mentioned in Article 9, § 1, no. 1.

4. Federal postal and telegraph taxes.

§ 1. The Union shall also have exclusive power:

1. To establish banks of issue.
2. To create and maintain custom-houses.

§ 2. Taxes levied by the Union shall be uniform for all the States.

§ 3. The laws of the Union and the acts and decrees of its authorities shall be executed throughout the whole country by federal officials: but the execution of the federal laws may be entrusted to the governments of the States, if they consent thereto.

ART. 8. The federal government is forbidden to make distinctions and preferences in any way whatever in favor of the ports of one State as against those of another.

ART. 9. The States shall have exclusive power to decree taxes:

1. On the exportation of merchandise produced in their own territory.

2. On rural and city real estate.
3. On the transfer of property.
4. On industries and professions.

§ 1. The States shall also have the exclusive right to decree:

1. Stamp taxes affecting acts emanating from their respective governments and concerning their internal affairs.

2. Contributions relating to their postal and telegraph service.

§ 2. The products of one State are exempted from imposts in any other State from which they may be exported.

§ 3. A State is permitted to levy duties on imports of foreign goods only when such goods are intended for consumption within its own territory, the proceeds of the duty reverting, however, to the federal treasury.

§ 4. The States have the right to establish telegraph lines between different points of their own territories, and between these points and those of other States which are not provided with a federal telegraph service, the Union reserving the right to acquire such lines when the general interest may require it.

ART. 10. It is prohibited to the States to levy taxes on federal property or revenue, or on services in charge of the Union, and vice versa.

ART. 11. It is forbidden to the States, as well as to the Union :

1. To impose duties on the products of a State, or of a foreign country, when in transit through the territory of another State, or going from one State to another, or on the vehicles, whether by land or water, by which they are transported.

2. To establish, subsidize or interfere with the exercise of religious worship.

3. To enact retroactive laws.

ART. 12. In addition to the sources of revenue set forth in Articles 7 and 9, it shall be lawful for the Union, as well as for the States cumulatively or otherwise, to create any others whatsoever, provided that they are not in contravention of the terms of Articles 7, 9 and 11. No. 1.

ART. 13. The right of the Union and of the States to legislate in regard to railways and navigation of internal waters shall be regulated by a federal law.¹

SOLE §. Coastwise navigation shall be carried on by national vessels.

ART. 14. The land and naval forces are permanent national institutions, intended for the defense of the country from foreign attack and for the maintenance of the laws of the land.

Within the limits of the law, the armed forces are from their nature bound to obey their superiors in rank, and to support the constitutional institutions.

ART. 15. The legislative, executive and judicial powers are organs of the national sovereignty, harmonious with each other, and independent among themselves.

SECTION I.—THE LEGISLATIVE POWER.

CHAPTER I.—GENERAL PROVISIONS.

ART. 16. The legislative power shall be exercised by the National Congress, subject to the approval of the President of the Republic
§ 1. The National Congress shall be composed of two branches the Chamber of Deputies and the Senate.

§ 2. The elections for senators and for deputies shall be held simultaneously throughout the country.

§ 3. No person shall be senator and deputy at the same time.

ART. 17. The Congress shall, without being convoked, assemble in the federal capital on the third day of May of each year, unless another day is designated by law, and shall continue in session four months from the date of the opening, and may be prorogued, adjourned, or convoked in extraordinary session.

¹ Law of 14 October 1892 (No. 109).

§ 1. The Congress alone shall have the right to prorogue and adjourn its sessions.

§ 2. Each legislature shall last three years.

§ 3. When a vacancy occurs in the Congress on account of resignation or for any other reason, the respective State shall order immediately the election of a new member.

ART. 18. The Chamber of Deputies and the Senate shall meet separately and, unless otherwise determined by a majority vote, their sessions shall be public. A majority of votes shall be required to pass any measure in either house, provided there is present an absolute majority of the total number of its members.

SOLE §. Each house shall have power:

To verify and accept the powers of its members.

To choose its officers.

To make the rules of its proceedings.

To provide for its own police service.

To appoint its clerks.

ART. 19. Deputies and senators can not be held to account for their opinions, expressions or votes in the discharge of their mandate.

ART. 20. Deputies and senators, from the time they have received their credentials until the new election, shall not be arrested or prosecuted criminally without the previous permission of the house to which they belong, except in the case of an unbailable crime *in flagrante delicto*. In the latter case, the court shall collect all the evidence and submit it to the house concerned, which shall decide whether or not an indictment is to be made, unless the accused shall choose to be tried immediately.

ART. 21. The members of the two houses, on taking their seats, shall take a formal oath, in public session, to perform their duties faithfully.

ART. 22. During the sessions the senators and deputies shall receive a salary, the same for members of both houses, and traveling expenses, said emoluments to be fixed by the Congress at the close of each legislature, for the succeeding one.

ART. 23. No member of Congress shall, from the day of his election, enter into contracts with the executive power, or receive from the same any salaried office or commission.

§ 1. From this prohibition are excepted:

1. Diplomatic missions.

2. Military commands and commissions.

3. Legal promotions.

§ 2. No deputy or senator shall, however, accept missions, commissions, or commands, indicated under Nos. 1 and 2 of the preced-

ing section, without first obtaining the permission of the house to which he belongs, when the acceptance precludes the member from exercising his legislative functions, except in case of war or in cases in which the honor and integrity of the Union are involved.

ART. 24. No deputy or senator shall be president or director of a bank, company, or enterprise which enjoys favors from the federal government defined by law.

SOLE §. Failure to observe the provisions contained in this and the preceding article shall entail the loss of the mandate.

ART. 25. The office of senator or deputy is incompatible with the exercise of any other functions during the sessions.

ART. 26. The following are the conditions of eligibility to the National Congress:

1. To enjoy the rights of a Brazilian citizen and be entitled to be registered as an elector.

2. For the Chamber of Deputies, to have been a Brazilian citizen for more than four years; for the Senate, Brazilian citizenship of more than six years.¹

This provision does not apply to the citizens mentioned in No. 4 of Article 69.

ART. 27. The Congress shall define, by a special law, the cases of ineligibility to Congress.

CHAPTER II.—THE CHAMBER OF DEPUTIES.

ART. 28. The Chamber of Deputies is composed of representatives of the people elected by the States and the Federal District, by direct suffrage, provided the representation of the minority is guaranteed.²

§ 1. The number of deputies shall be fixed by law and shall not exceed one for every 70,000 inhabitants, but each State shall have at least four deputies.³

¹ The draft of the Constitution proposed by the provisional government required seven and nine years respectively.

² The law regulating elections bears the date of 26 January 1892 (No. 35). The Law of 7 December 1896 deals with the procedure to be followed in federal elections. The electoral laws were codified by a decree of 7 February 1894 (No. 1668).

³ The present division of deputies between the 20 States and the Federal District is as follows:

Alagoas.....	6	Parana.....	4
Amazonas.....	4	Pernambuco.....	17
Bahia.....	22	Paraíba.....	4
Ceara.....	10	Rio de Janeiro.....	17
Distrito Federal.....	10	Rio Grande do Norte.....	4
Espírito Santo.....	4	Rio Grande do Sul.....	16
Goyaz.....	4	Santa Catharina.....	4
Maranhão.....	7	São Paulo.....	22
Matto Grosso.....	4	Sergipe.....	4
Minas Geraes.....	37		
Para.....	7	Total.....	212
Parahyba.....	5		

§ 2. For this purpose the federal government shall order a census of the population of the Republic to be taken at once, which shall be renewed every 10 years.

ART. 29. To the Chamber belongs the initiative for the adjournment of the legislative session and of all tax laws, of laws fixing the land and naval forces, in the discussion of recommendations made by the executive power, and in the decision of the question whether the President of the Republic should or should not be impeached, under the provisions of Article 53, and whether the cabinet ministers should or should not also be impeached for crimes committed by them jointly with the President of the Republic.

CHAPTER III.—THE SENATE.

ART. 30. The Senate is composed of citizens eligible under the terms of Article 26, who are over 35 years old. There shall be three senators for each State and three for the Federal District, all of them elected in the same way as the deputies.¹

ART. 31. The term of service of the senators shall be nine years, one third of the Senate being renewed every three years.

SOLE §. The term of a senator elected in place of another shall continue during the remainder of the term of the senator replaced.

ART. 32. The Vice-President of the Republic shall be the president of the Senate, where he shall have only the vote of rank (*voto de qualidade*).² and shall be replaced, in case of absence or disability, by the vice-president of that house.

ART. 33. The Senate alone has the power to try and pass sentence on the President of the Republic and the other federal officers designated by the Constitution, under the conditions and in the manner which it prescribes.

§ 1. The Senate, when sitting as a court of justice, shall be presided over by the president of the Federal Supreme Court.

§ 2. It shall not pass sentence of condemnation unless by two thirds of the members present.

§ 3. It shall not impose other penalties than the loss of office and disqualification to hold any other, without prejudice to the action of ordinary justice against the condemned.

CHAPTER IV.—POWERS OF THE CONGRESS.

ART. 34. The National Congress shall have exclusive power:

1. To estimate the revenue and fix the expenditures of the federal government annually, and to examine the accounts of the receipts and expenditures of each financial year.

¹ The governmental draft proposed the election of senators by the legislatures of the States.

² That is, the right of voting in case of tie.

2. To authorize the executive power to contract loans and conduct other operations of credit.

3. To legislate concerning the public debt and provide for its payment.

4. To control the collection and distribution of the federal revenue.

5. To regulate international commerce as well as that of the States with each other and with the Federal District, to establish custom-houses, to create or abolish warehouses of deposit.

6. To legislate concerning navigation of rivers running through more than one State or extending into foreign territory.

7. To determine the weight, value, inscription, type and denomination of coins.

8. To create banks of issue, to legislate thereon and to levy taxes thereon.

9. To fix the standard of weights and measures.

10. To determine definitively the boundaries of the States, the Federal District, and the national territory.

11. To authorize the government to declare war, when arbitration has failed or can not take place, and to make peace.

12. To decide definitively with regard to treaties and conventions with foreign nations.

13. To change the capital of the Union.¹

14. To grant subsidies to the States in the case referred to in Article 5.

15. To legislate concerning the federal postal and telegraph service.

16. To adopt the measures proper for the protection of the frontiers.

17. To fix annually the land and naval forces.

18. To legislate concerning the organization of the army and navy.

19. To grant or refuse the passage of foreign forces through the territory of the country for the purpose of military operations.

20. To mobilize and make use of the national guard or militia in the cases provided for by the Constitution.

21. To declare a state of siege at one or more points in the national territory, in the emergency of an attack by foreign forces or of internal disturbance, and to approve or suspend the state of siege declared by the executive power or its responsible agents during the recess of Congress.

22. To establish the conditions and methods of elections for federal offices throughout the country.

¹ See above, Article 3.

23. To legislate concerning the civil, commercial and criminal laws of the Republic, and the law of federal procedure.
 24. To establish uniform laws on naturalization.
 25. To create and abolish federal public offices, to fix the duties of the same and to designate their salaries.
 26. To organize the federal judicial system in accordance with Articles 55 and following of Section III.
 27. To grant amnesty.
 28. To commute and remit penalties imposed upon federal officers in cases of impeachment.
 29. To legislate concerning the lands and mines belonging to the Union.
 30. To legislate concerning the municipal organization of the Federal District, as well as the police, higher education and other services which in the capital are reserved to the federal government.
 31. To submit to special legislation those points of the territory of the Republic needed for the establishment of arsenals or other establishments or institutions for federal use.
 32. To regulate cases of extradition between the States.
 33. To enact such laws and resolutions as may be necessary for the exercise of the powers belonging to the Union.
 34. To enact the organic laws necessary for the complete execution of the Constitution.
 35. To prorogue or adjourn its sessions.
- ART. 35. The Congress shall also have power, but not exclusively:
1. To see to the observance of the Constitution and laws and to provide for needs of a federal character.
 2. To encourage in the country the development of letters, arts and sciences, as well as of immigration, agriculture, industry and commerce, without granting privileges which may embarrass the action of the local governments.
 3. To create institutions for higher and secondary education in the States.
 4. To provide for secondary education in the Federal District.

CHAPTER V.—LAWS AND RESOLUTIONS.

ART. 36. Save the exceptions specified in Article 29, all bills may originate, indifferently, in the Chamber or in the Senate, and may be introduced by any of their members.

ART. 37. A bill, after being passed in one of the houses, shall be submitted to the other, and if the latter approves of it, shall be sent to the executive power, which, if approving it, shall sanction and promulgate it.

§ 1. If, however, the President of the Republic shall consider the bill unconstitutional, or contrary to the interests of the nation, he shall veto it within 10 working days, counted from that on which

he received it, and shall return it within the same period to the house in which it originated, with his reasons for the veto.

§ 2. The failure of the President of the Republic to approve or disapprove the bill within these 10 days shall be considered as an approval; in case the bill is vetoed after the Congress has closed, the President shall publish his reasons therefor.

§ 3. A bill not approved shall be returned to the house in which it originated, where it shall be discussed and subjected to a yea-and-nay vote, and shall be considered approved if it obtain two thirds of the votes of the members present. In this case, the bill shall be sent to the other house, and if it be there approved in the same manner and by the same majority it shall be sent as a law to the executive power, for formal promulgation.

§ 4. The sanction and promulgation shall be made in the following language:

1. "The National Congress enacts and I approve the following law (or resolution)."

2. "The National Congress enacts and I promulgate the following law (or resolution)."

ART. 38. If the law is not promulgated within 48 hours by the President of the Republic in the cases specified in §§ 2 and 3 of Article 37, the president of the Senate, or the vice-president, if the president does not do it in the same period, shall promulgate it, using the following language: "I, the president (or the vice-president) of the Senate, do hereby make known to all those who may see these presents that the National Congress enacts and promulgates the following law (or resolution)."

ART. 39. A bill from one house, amended in the other, shall return to the former, and if the amendments are accepted therein, shall be sent to the executive power as amended.

§ 1. In the contrary case, it shall go back to the house where it was amended, and if the alterations receive the vote of two thirds of the members present, they shall be considered as approved, and shall then be sent, together with the bill, to the house where it originated, which can only reject them by a two-thirds vote.

§ 2. If the alterations are rejected by such vote, the bill shall be submitted without them to the approval of the executive.

ART. 40. Bills finally rejected, or not approved, shall not be presented again in the same legislative session.

SECTION II.—THE EXECUTIVE POWER.

CHAPTER I.—THE PRESIDENT AND VICE-PRESIDENT.

ART. 41. The executive power shall be exercised by the President of the Republic of the United States of Brazil as elective head of the nation.

§ 1. The Vice-President, elected simultaneously with the President, shall take the place of the latter in case of temporary disability, and shall succeed him in case of vacancy in the Presidency.

§ 2. In case of disability of the Vice-President, or vacancy of his office, the following shall be called in the order named, to fill the Presidency: The vice-president of the Senate, the president of the Chamber of Deputies, the president of the Federal Supreme Court.

§ 3. The following are the essential conditions of eligibility to the Presidency or Vice-Presidency of the Republic:

1. To be a native of Brazil.
2. To enjoy the exercise of political rights.
3. To be over 35 years of age.

ART. 42. If the vacancy in the Presidency or Vice-Presidency occurs, for any cause whatever, before two years of the presidential term have elapsed, a new election shall be held.

ART. 43. The President shall hold his office for four¹ years, and shall not be reelected for the succeeding presidential term.

§ 1. The Vice-President who may have filled the Presidency during the last year of the presidential term shall not be eligible to the Presidency for the succeeding term.

§ 2. The President shall cease to exercise his powers, without fail, on the same day on which his presidential term expires, and the newly elected President shall at once succeed him.

§ 3. In case of the disability or failure of the latter to enter upon the discharge of his duties, the succession shall be effected in accordance with §§ 1 and 2 of Article 41.

§ 4. The first presidential term shall expire on 15 November 1894.

ART. 44. On taking possession of his office, the President, before Congress, or if that body is not in session, before the Federal Supreme Court, shall make the following affirmation:

I promise to maintain and execute the federal Constitution with perfect loyalty, to promote the general welfare of the Republic, to observe its laws, and to uphold the Union, its integrity and independence.

ART. 45. The President and Vice-President shall not leave the national territory without the permission of the Congress, under penalty of loss of office.

ART. 46. The President and Vice-President shall receive the salary fixed by the Congress in the preceding presidential term.

CHAPTER II.—ELECTION OF PRESIDENT AND VICE-PRESIDENT.

ART. 47. The President and Vice-President of the Republic shall be elected by direct suffrage² of the nation and by an absolute majority of votes.

¹ The governmental draft proposed six years.

² The governmental draft proposed two degrees of suffrage. Article 1 of the Transitory Provisions provided for the election of the first President.

§ 1. The election shall be held on the first day of March of the last year of the presidential term, and the examination of the votes received in the respective election districts shall be made in the federal capital and in the capitals of the States. Congress shall count the votes in its first meeting of the same year, with whatever number of members may be present.

§ 2. In case no one of the candidates shall have received an absolute majority of votes, Congress shall elect, by a majority vote of those present, one of the two persons who have obtained the greatest number of votes in the direct election.

In case of tie the candidate of greatest age shall be considered elected.

§ 3. The process of election and counting of votes shall be regulated by ordinary law.

§ 4. The relatives, whether by blood or affinity, within the first and second degrees, of the President or Vice-President who is in the exercise of his powers at the time of the election, or was so six months before, shall be ineligible to the offices of President and Vice-President.

CHAPTER III.—THE POWERS OF THE EXECUTIVE.

ART. 48. To the President of the Republic belongs the exclusive right:

1. To sanction, promulgate and make public the laws and resolutions of the Congress; to issue decrees, instructions and regulations for their faithful execution.

2. To appoint and dismiss at will the ministers of State.

3. To exercise, or to designate one who shall exercise supreme command over the land and naval forces of the United States of Brazil when called to arms for the internal or external defense of the Union.

4. To govern the army and navy and to distribute their respective forces, in accordance with the federal laws and the needs of the national government.

5. To dispose of the civil and military offices of a federal character, under the restrictions specified in the Constitution.

6. To remit and commute penalties for crimes subject to federal jurisdiction, except in the cases mentioned in Article 34, No. 28, and Article 52, § 2.

7. To declare war and to make peace, under the provisions of Article 34, No. 11.

8. To declare war at once in cases of foreign invasion or aggression.

9. To present an annual statement to the National Congress of the condition of the country, indicating pressing measures and re-

forms, by means of a message, which he shall send to the secretary of the Senate on the day of the opening of the legislative session.

10. To convoke the Congress in extraordinary session.

11. To appoint the federal judges upon nomination by the Supreme Court.

12. To appoint the members of the Federal Supreme Court and diplomatic ministers, with the approval of the Senate.

In the absence of the Congress, he may appoint them temporarily until acted upon by the Senate.

13. To appoint all other members of the diplomatic corps and consular agents.

14. To maintain relations with foreign Powers.

15. To declare directly, or through his responsible agents, a state of siege at any point of the national territory, in case of foreign aggression or serious internal disturbance (Article 6, No. 3; Article 34, No. 21; and Article 80).

16. To enter into international negotiations, to conclude agreements, conventions and treaties, always with the restriction that they are to be referred to the Congress, and to approve those made by the States in conformity with Article 65, submitting them, at the time of their execution, to the authority of the Congress.

CHAPTER IV.—MINISTERS OF STATE.

ART. 49. The President of the Republic is assisted by the ministers of State, agents of his confidence, who shall countersign his acts, and each of whom shall preside over one of the ministries into which the federal administration is divided.¹

ART. 50. The ministers of State shall not exercise any other public employment or function, nor shall they be elected President or Vice-President of the Union, deputy or senator.

SOLE §. Any deputy or senator who shall accept the position of minister of State shall lose his seat and a new election shall at once be held, in which he shall be ineligible.

ART. 51. The ministers of State shall not appear at the meetings of the Congress and shall communicate with that body only in writing or personally by means of conferences with the committees of the houses.

The annual reports of the ministers shall be addressed to the President of the Republic and distributed to all the members of Congress.

ART. 52. The ministers of State are not responsible to the Congress or to the courts for advice given to the President of the Republic.

§ 1. They are responsible, however, for their acts, if these constitute crimes defined by law.

¹ The Law of 30 October 1891 (No. 23) created 7 ministries. Later reduced to 6, they were again (1909) restored to 7.

§ 2. For ordinary offenses and in cases of impeachment they shall be prosecuted and tried by the Federal Supreme Court, and for those committed jointly with the President of the Republic, by the authority competent to pass judgment on the latter.

CHAPTER V.—THE RESPONSIBILITY OF THE PRESIDENT.

ART. 53. The President of the Republic of the United States of Brazil, after the Chamber of Deputies shall have decided that he should be tried on charges made against him, shall be brought to trial and judgment before the Federal Supreme Court in cases of ordinary crimes, and before the Senate in cases of impeachment.

SOLE §. After it has been decided that the President shall be tried, he shall be suspended from the exercise of his functions.

ART. 54. Acts for which the President of the Republic may be impeached are those which are directed against:

1. The political existence of the Union.
2. The Constitution and the form of the federal government.
3. The free exercise of political powers.
4. The legal enjoyment and exercise of political or individual rights.
5. The internal security of the country.
6. The honesty of the administration.
7. The constitutional custody and use of public funds.
8. The appropriations voted by Congress.

§ 1. These offenses shall be defined by a special law.¹

§ 2. Another law shall regulate the mode of accusation, procedure and judgment.²

§ 3. Both of these laws shall be enacted in the first session of the first Congress.

SECTION III.—THE JUDICIAL POWER.

ART. 55. The judicial power of the Union shall be vested in a Federal Supreme Court, sitting in the capital of the Republic, and in as many inferior federal judges and courts, distributed through the country, as the Congress shall create.

ART. 56. The Federal Supreme Court shall be composed of 15 justices, appointed under the provisions of Article 48, No. 12, from among the citizens of notable learning and reputation, eligible to the Senate.

ART. 57. The federal justices shall hold office for life, being removable only by judicial sentence.

§ 1. Their salaries shall be fixed by law and can not be diminished.

¹ Law of 7 January 1892 (No. 27).

² Law of 8 January 1892 (No. 30).

§ 2. The Senate shall try the impeachments of the members of the Federal Supreme Court and the Federal Supreme Court those of the lower federal judges.

ART. 58. The federal courts shall choose their presidents from among their own members, and shall organize their respective clerical corps.

§ 1. In these corps the appointment and dismissal of the respective clerks, as well as the filling of the judicial offices in the judicial districts, shall belong to the presidents of the respective courts.

§ 2. The President of the Republic shall appoint, from among the members of the Federal Supreme Court, the Attorney-General of the Republic, whose attributions shall be defined by law.

ART. 59. The Federal Supreme Court shall have power:

I. To try with original and exclusive jurisdiction:

a. The President of the Republic for ordinary crimes, and the ministers of State in the cases specified in Article 52.

b. The diplomatic ministers for ordinary crimes and in cases of impeachment.

c. Questions and conflicts between the Union and the States, or between the States one with another.

d. Suits and claims between foreign nations and the Union, or between foreign nations and the States.

e. Conflicts between the federal judges or courts one with another, or between them and those of the States, as also conflicts of the judges and courts of one State with the judges and courts of another State.

II. To decide, on appeal, questions passed upon by the inferior federal judges and courts, as well as those mentioned in § 1 of the present article and in Article 60.

III. To review decided cases under the provisions of Article 81.

§ 1. An appeal to the Federal Supreme Court can be taken against decisions rendered in the last instance, by the courts of the State:

a. When the validity or application of the federal laws or treaties is called in question and the decision of the State court shall be against the same.

b. When the validity of laws or acts of the governments of the States in opposition to the Constitution or to the federal laws is contested and the State court shall have decided in favor of the validity of the acts or laws in question.

§ 2. In the cases which involve the application of the laws of the States, the federal court shall consult the jurisprudence of the local tribunals, and, vice versa, the State court shall consult that of the federal tribunals, when the interpretation of the laws of the Union is involved.

ART. 60. It belongs to the federal judges and courts to try and decide:

a. Cases in which one of the parties bases his claim or defense on some provision of the Federal Constitution.

b. Suits against the government of the Union or the national treasury, founded upon provisions of the Constitution, laws and regulations of the executive power, or upon contracts entered into with the same government.

c. Claims for compensation, recovery of property, indemnification for damages or any other claims, presented by the government of the Union against private individuals or vice versa.

d. Litigations between one State and the citizens of another, or between citizens of different States, when the respective State laws are different.

e. Disputes between foreign States and Brazilian citizens.

f. Actions instituted by foreigners, founded upon contracts with the federal government or upon conventions or treaties between the Union and other nations.

g. Questions of maritime law and those relating to navigation, either of the ocean or of the rivers and lakes of the country.

h. Questions of international criminal or civil law.

i. Political crimes.

§ 1. Congress is forbidden to delegate any federal jurisdiction to the courts of the States.

§ 2. Sentences and decrees of the federal judges shall be enforced by the federal court officers, to whom the local police shall be bound to render assistance when called upon to do so.

ART. 61. The decisions of the State judges or courts of competent jurisdiction shall put an end to the suits and questions in which they are rendered, except in cases of:

1. *Habeas corpus*; or

2. Settlement of the estate of a deceased foreigner, in cases not provided for by convention or treaty.

In such cases voluntary recourse may be had to the Federal Supreme Court.

ART. 62. The State courts shall not have power to intervene in questions submitted to the federal courts, or to annul, alter, or suspend the sentences or orders of the latter. And, reciprocally, the federal courts can not intervene in questions submitted to the State courts, or annul, alter, or suspend the decisions or orders of the latter, except in the cases expressly defined in this Constitution.

TITLE II.—THE STATES.

ART. 63. Each State shall be governed by the Constitution and laws adopted by it, provided that the constitutional principles of the Union be respected.

ART. 64. The mines and vacant lands situated in the States shall belong to them, the Union having the right only to that portion of the territory which may be necessary for the defense of the frontier, for fortifications, military constructions and federal railways.

SOLE §. National property which may not be necessary for the service of the Union shall pass to the dominion of the States in whose territory it may be situated.

ART. 65. The States shall have the right:

1. To conclude among themselves agreements and conventions of a nonpolitical character (Article 48. No. 16).
2. To use, in general, any power or right not denied to them by a provision, expressed or implied, of the Constitution.

ART. 66. It is forbidden to the States:

1. To refuse faith and credit to public documents of the Union or of any State, of a legislative, administrative, or judicial character.
2. To refuse to recognize the currency, whether coin or paper, put into circulation by the federal government.
3. To make or declare war, one against another, or make use of reprisals.
4. To refuse the extradition of criminals when requested by the courts of other States or of the Federal District, in conformity with the laws of Congress relating to this subject (Article 34, No. 32).

ART. 67. Excepting the restrictions specified in the Constitution and the federal laws, the Federal District shall be governed by the municipal authorities.¹

SOLE §. The expenses of a local character in the capital of the Republic shall be defrayed exclusively by the municipal authority.

TITLE III.—THE MUNICIPALITY.

ART. 68. The States shall organize themselves in such a way as to assure the autonomy of the municipalities in respect to all that relates to their particular interests.

TITLE IV.—BRAZILIAN CITIZENS.

SECTION I.—QUALIFICATIONS OF BRAZILIAN CITIZENS.

ART. 69. The following are Brazilian citizens:

1. Persons born in Brazil, even of a foreign father, if the latter is not residing in Brazil in the service of his own nation.
2. Children of a Brazilian father, and illegitimate children of a Brazilian mother, born in foreign countries, if they establish their domicile in the Republic.

¹ Law of 29 December 1902 which reorganized the Federal District and the municipal power in the federal capital.

3. Children of a Brazilian father residing in a foreign country in the service of the Republic, provided that they do not establish their domicile there.

4. Foreigners who, having been in Brazil on 15 November 1889, shall not have declared, within six months after the Constitution comes into force, their intention to preserve their nationality of origin.

5. Foreigners who hold real estate in Brazil and are married to Brazilian women, or have Brazilian children, provided that they reside in Brazil, unless they have declared their intention of not changing their nationality.

6. Foreigners naturalized¹ in any other way.

ART. 70. Citizens of more than 21 years of age, who are registered according to law, shall be electors.

§ 1. The following shall not be registered as electors for federal or State elections:

1. Beggars;
2. Illiterate persons;
3. Soldiers on pay, except cadets of the higher military schools;
4. Members of monastic orders, companies, congregations or communities of any denomination, subject to a vow of obedience, or rule or statutes, implying the surrender of individual liberty.

§ 2. Citizens who are not registered are not eligible to office.

ART. 71. The rights of the Brazilian citizen can be suspended or lost only in the following cases:

§ 1. The rights are suspended:

- a. Through physical or moral disability.
- b. Through condemnation for crime, during the period of its operation.

§ 2. They shall be lost:

- a. Through naturalization in a foreign country.
- b. Through the acceptance of employment or pension from a foreign government, without permission of the federal executive power.

§ 3. A federal law shall determine the conditions for the re-acquisition of the rights of Brazilian citizenship.

SECTION II.—DECLARATION OF RIGHTS.

ART. 72. The Constitution secures to Brazilians and foreigners residing in the country the inviolability of their rights touching liberty, personal security and property, in the following terms:

§ 1. No person shall be forced to do, or not to do, anything except by virtue of law.

§ 2. All persons are equal before the law.² The Republic does not recognize privileges of birth, or titles of nobility, and abolishes the

¹ Law of 12 November 1902 on the naturalization of foreigners.

² Slavery was suppressed in Brazil in 1888.

existing honorary orders, their prerogatives and decorations, as well as all titles of nobility and the title of counsellor.

§ 3. All persons and religious confessions shall have the right to exercise their religion publicly and freely, to form associations for that purpose, and to acquire property, so long as they conform to the provisions of the ordinary law.

§ 4. The Republic recognizes only the civil marriage, the solemnization of which shall be gratuitous.

§ 5. The cemeteries shall possess a secular character, and shall be managed by the municipal authorities, but all religious denominations shall be free to use their respective rites in conformity with their beliefs, provided they do not offend public morals and the laws.

§ 6. The instruction given in public institutions shall be laical.

§ 7. No denomination or church shall be officially subsidized or made dependent on, or connected with, the government of the Union, or of the States.

§ 8. All persons shall have the right of free association¹ and assembly without arms; the police force shall not intervene, except to maintain public order.

§ 9. All persons shall be permitted to address, by petition, the public powers, to denounce abuses of the authorities and to request that the guilty parties be held responsible.

§ 10. In time of peace all persons shall have the right to enter or leave the territory of the Republic, when and how they please, carrying with them their property, without necessity of securing a passport.

§ 11. The house is the inviolable asylum of the person who inhabits it; without his consent no one can enter it at night, except to aid the victims of a crime or disaster, or during the day, except in the cases and in the form prescribed by law.

§ 12. The expression of opinion on all subjects, through the press or from the platform, shall be free, without subjection to censorship, each one being responsible for the abuses he may commit, in the cases and in the form prescribed by law. Anonymous publications shall not be permitted.

§ 13. No arrest shall be made, except in case of *flagrante delicto*, without the prisoner having been previously indicted, unless otherwise permitted by law, and upon written order of the proper authority.

§ 14. No one shall be kept in prison without charges having been formally filed against him, except in the cases prescribed by law, nor taken to prison, or detained there, if he will give proper bail, in cases where bail is lawful.

¹ Law of 10 September 1893 (No. 173).

§ 15. No one shall be sentenced, except by competent authority, and in virtue of a preexisting law, and in the form prescribed by it.

§ 16. The law shall secure to the accused the fullest defense and all the recourses and means essential thereto, including notice of the charge, to be delivered to the prisoner within 24 hours, signed by the competent authority, with the names of the accusers and witnesses.

§ 17. The rights of property shall be maintained in all their plenitude, except in cases of expropriation because of necessity or public utility, in which cases indemnity shall be made beforehand.

Mines shall belong to the owners of the soil, with the limitations which may be established by law to encourage the exploitation of this branch of industry.

§ 18. The secrecy of correspondence is inviolable.

§ 19. No penalty shall extend beyond the person of the guilty party.

§ 20. The penalties of the galleys and of judicial banishment are abolished.

§ 21. The death penalty is likewise abolished, saving the provisions of military legislation in time of war.

§ 22. The writ of *habeas corpus* shall always be granted when the individual suffers or is in imminent danger of suffering violence or coercion, through illegality or abuse of power.

§ 23. No privileged jurisdiction shall be recognized, except in those cases which, owing to their nature, belong to special courts.

§ 24. The free exercise of any profession, moral, intellectual, or industrial, shall be guaranteed.

§ 25. Industrial inventions shall belong to their inventors, who shall be protected by a patent granted for a limited time, or rewarded by Congress with a reasonable prize, when the usefulness of the invention may vouch for it.¹

§ 26. The exclusive right to reproduce, by the press or any other mechanical process, literary or artistic works is guaranteed to their authors. The heirs of the authors shall enjoy this right for the period which the law shall determine.²

§ 27. The law shall also secure the ownership of trade-marks.³

§ 28. No Brazilian citizen shall be deprived of his civil or political rights, or exempted from the performance of any civic duty whatsoever, on account of his religious belief or office.

§ 29. All those who allege their religious belief as a reason for exempting themselves from any duty which the laws of the Republic impose upon its citizens, and those who accept foreign decorations or titles of nobility, shall lose all their political rights.

¹ Law of 14 October 1882. The international protection of patents is covered by the Law of 9 January 1903.

² Law of 1 August 1898.

³ Law of 24 September 1904.

§ 30. No tax of any kind shall be collected except under authority of law.

§ 31. Trial by jury shall be maintained.

ART. 73. Public offices, civil or military, shall be accessible to all Brazilian citizens, provided that the conditions of special fitness, fixed by law, be observed; the accumulation of salaried positions is forbidden.

ART. 74. Commissions, positions and offices to be held for life shall be fully guaranteed.

ART. 75. Public officers shall be retired with pay, only in case of becoming unable to perform their duties while in the service of the nation.

ART. 76. Officers of the army and navy shall forfeit their commissions, only when condemned, after trial by the competent courts, to more than two years' imprisonment.

ART. 77. The military and naval officers shall be tried by special courts for military offenses.

§ 1. This jurisdiction shall be vested in a Supreme Military Court, whose members shall serve for life, and in the courts martial which may be needed for the proper trial of the cases.

§ 2. The organization and attributions of the Supreme Military Court shall be governed by law.¹

ART. 78. The enumeration of guarantees and rights made in the Constitution shall not exclude other guarantees and rights not enumerated, but resulting from the form of government established and the principles proclaimed by said Constitution.

TITLE V.—GENERAL PROVISIONS.

ART. 79. The citizen vested with functions belonging to one of the three federal powers shall not exercise those belonging to the other two.

ART. 80. Any part of the territory of the Union may be declared in state of siege and the constitutional guarantees suspended in it for a fixed period, whenever the security of the Republic may demand it, in case of foreign aggression or internal disturbance (Article 34, No. 21).

§ 1. If Congress is not in session and the country is in imminent danger, the federal executive power shall exercise this prerogative (Article 48, No. 15).

§ 2. In the exercise of this power during a state of siege the executive power shall be restricted to the following measures of repression against persons:

1. To their detention in a place not destined for persons accused of common crimes.

¹ This court was organized by the Law of 18 July 1893 (No. 149).

2. To banishment to some other part of the national territory.

§ 3. As soon as the Congress assembles, the President of the Republic shall report to that body all the exceptional measures which he may have taken, giving his reasons therefor.

§ 4. The authorities who have ordered such measures shall be responsible for any abuses which may have been committed.

ART. 81. Terminated criminal cases may be reviewed at any time, if to the benefit of the condemned parties, by the Federal Supreme Court, which shall amend or affirm the sentence.

§ 1. The law shall determine the manner and form of the revision, which may be asked for, either by the condemned party, by any one of the people, or *ex officio* by the Attorney-General of the Republic.

§ 2. In such revisions, the penalties imposed by the judgment under review shall not be increased.

§ 3. The provisions of the present article shall apply to military trials.

ART. 82. Public officers shall be strictly responsible for the abuses and omissions of which they may be guilty in the exercise of their functions, as well as for their failure, through indulgence or negligence, to exact from their subordinates the proper responsibility for their acts.

SOLE §. Public officers shall bind themselves, formally, on taking possession of their offices, to faithfully discharge the lawful duties of the same.

ART. 83. Until revoked, the laws of the former *régime* shall remain in force, except in so far as they are explicitly or implicitly contrary to the system of government established by the Constitution, and to the principles proclaimed by its provisions.

ART. 84. The government of the Union guarantees the payment of the public debt, domestic or foreign.

ART. 85. The staff and line officers of the navy shall have the same ranks and privileges as the officers of the army of corresponding grade.

ART. 86. Every Brazilian is bound to do military service in defense of the country and of the Constitution, in accordance with the federal laws.

ART. 87. The federal army shall be made up of contingents, which the States and the Federal District are bound to furnish in accordance with the annual law fixing the strength of the public force.

§ 1. A federal law shall determine the general organization of the army, in accordance with No. 18 of Article 34.

§ 2. The military instruction of the corps and branches of the army service and higher military education shall be in charge of the Union.

§ 3. Compulsory recruiting for military service is abolished.

§ 4. The army and navy shall consist of volunteers, enlisted without bounty, and if this method fails, draftings shall be made according to a plan previously arranged.

The personnel of the navy shall be made up by lot out of pupils of the Naval School, the schools of naval apprentices, and members of the merchant marine.

ART. 88. The United States of Brazil shall in no case engage in a war of conquest, directly or indirectly, by itself or in alliance with another nation.

ART. 89. A Court of Accounts shall be established to audit the accounts of receipts and expenditures and to pass upon their legality before they are presented to Congress.

The members of this Court shall be appointed by the President of the Republic with the approval of the Senate, and shall lose their places only by judicial sentence.

ART. 90. The Constitution may be amended upon the initiative of the National Congress, or of the legislatures of the States.

§ 1. An amendment shall be considered as proposed, when introduced by one fourth, at least, of the members of either house of the National Congress, and accepted, after three discussions, by two thirds of the votes in both houses of the Congress, or, when suggested by two thirds of the States, in the course of one year, each State being represented by a majority of the votes of its legislature.

§ 2. The proposed amendment shall be considered approved, if, in the following year, after three discussions, it is adopted by a majority of two thirds¹ of the votes in the two houses of Congress.

§ 3. The amendment adopted shall be published with the signatures of the presidents and secretaries of the two houses, and incorporated in the Constitution as an integral part thereof.

§ 4. No project having a tendency to abolish the federal republican form of government, or the equal representation of the States in the Senate, shall be admitted for consideration in the Congress.

ART. 91. As soon as this Constitution is approved, it shall be promulgated by the presiding officers of the Congress and signed by the members of the same.²

TRANSITORY PROVISIONS.

ARTICLE 1. Upon the promulgation of the present Constitution, the Congress, assembled in joint session, shall choose at once, by absolute majority in the first balloting, and, if such be not obtained, by a relative majority in the second, the President and Vice-President of the United States of Brazil.

¹ The governmental draft proposed a majority of three fourths.

² In the *Official Journal* of 25 February 1891 there are 223 signatures.

§ 1. This election shall be made through two different votes, one for the President and another for the Vice-President; the votes for the President shall be taken and counted first, and then the votes for Vice-President shall be taken and counted.

§ 2. The President and Vice-President thus elected shall fill the Presidency and Vice-Presidency of the Republic during the first presidential term.

§ 3. There shall be no incompatibilities in this election.

§ 4. As soon as said election is made, the Congress shall declare its mission in joint session as a convention to be ended, and, separating itself into Chamber and Senate, shall enter upon the exercise of its normal functions on the fifteenth of June of the current year, and it shall not for any reason be dissolved.

§ 5. In the first year of the first legislature, the Senate, as soon as it has completed its organization, shall designate preliminarily the first and second thirds of its members, whose terms shall cease at the end of the first and second triennial periods.

§ 6. This designation shall be made in three lists, corresponding to the three thirds of the Senate, whereon the names of the senators of each State and of the Federal District shall be inscribed, according to the respective number of votes obtained by them, so that the one first in the voting in the Federal District and in each State shall be placed in the list for the last triennium and the others in the lists of the other triennial periods, according to the relative number of votes obtained by them.

§ 7. In case of tie preference shall be given to the elder, and if the ages be equal the choice shall be made by lot.

ART. 2. The State which, at the end of the year eighteen hundred and ninety-two, shall not have adopted a constitution for itself shall be, by Act of Congress, subjected to that one of another State which may be deemed most suitable, but the State thus subjected to the constitution of another State shall have the right to amend that instrument in the manner provided in the same.

ART. 3. As fast as the States shall be organized, the federal government shall deliver to them the administration of the services which belong to them under the Constitution, and shall settle the responsibility of the Federal administration in all that relates to said services and to the payment of the respective officials.

ART. 4. While the States are engaged in regulating their expenses and during the whole period of organization of their services, the federal government shall grant them special credits for this purpose under conditions to be established by law.

ART. 5. As soon as the States are organized, the classification of the revenues established in the Constitution shall enter into force.

ART. 6. In the first appointments of federal and State judges, preference shall be given to the present members of the law courts, and to those judicial officers called *desembargadores*, who may enjoy the greatest reputation.

Judges who have served for over thirty years and can not have positions in the new judicial organization shall be retired on full pay.

Those who have served for less than thirty years shall continue to receive their present salaries until they are employed or retired with salaries corresponding to their time of service.

The expenses to be incurred in paying the salaries of the judges placed on the retired or reserve lists shall be paid by the federal government.

ART. 7. On and after 15 November 1889, a pension shall be paid to D. PEDRO DE ALCANTARA, ex-Emperor of Brazil, which shall guarantee him a suitable maintenance for the remainder of his life. Congress in its first regular session shall fix the amount of this pension.

ART. 8. The federal government shall acquire for the nation the house in which BENJAMIN CONSTANT BOTELHO DE MAGALHÃES died, and shall order a tablet to be placed upon the same in memory of that great patriot, the founder of the Republic.

SOLE §. The widow of said DR. BENJAMIN CONSTANT shall enjoy the use of said house during her life.¹

¹The signatures of the President of the Congress and of the senators and deputies follow.

BULGARIA.

Preliminary Treaty of Peace, which ended the Russo-Turkish war and was signed at San Stefano 19 February / 3 March 1878,¹ considerably reduced the Ottoman power in Europe. Bulgaria was freed from the Ottoman Empire and constituted into "an autonomous and tributary principality, under the sovereignty of His Majesty the Sultan," by Article 1 of the Treaty of Berlin of 13 July 1878. This same treaty imposed on the new State certain conditions as to the election of the Prince (Article 2) and religious liberty (Article 5). On 10/22 February 1879, the first Bulgarian assembly was convened in the principality and the new Constitution was promulgated at Tirnovo 16/28 April 1879. It contains 169 articles. Eastern Rumelia revolted against Turkish domination in September 1885 and proclaimed Alexander Prince. The latter accepted the title of Prince of the two Bulgarias of the north and of the south by a manifesto dated from Tirnovo 20 September.

The Constitution of 1879 was the object of an important revision. The proposal of the government, adopted by the Ordinary National Assembly on 7/19 December 1892, was submitted to the National Assembly, which was convened at Tirnovo on 3/15 January 1893. On 15/27 May the revision was passed. Thirteen articles of the Constitution were amended: Articles 6, 38, 58, 59, 86, 114, 115, 133, 139, 141, 144 and 161.⁴

On 11 the Constitution underwent another revision. The Grand National Assembly was opened at Tirnovo on 9/22 June 1911 and after twenty-two meetings, at the conclusion of which (7/20 July) the new Constitution was adopted. The project of the Fourteenth Ordinary National Assembly was adopted with some modifications and promulgated four days later. Ten articles were amended: Articles 6, 17, 19, 24, 35, 38, 55, 72, 86, 121, 127 and 161.

¹ The text in *British and Foreign State Papers*, 69: pp. 732-744; English translation in EDWARD HERTSFLET, *Map of Europe by Treaty*, vol. IV (London, 1891), pp. 2672-

² The text in *British and Foreign State Papers*, 69: pp. 749-767; English translation in HERTSFLET, *op. cit.*, pp. 2759-2790.

³ The translation in *British and Foreign State Papers*, 70: pp. 1303-1318, and *Annuaire de législation étrangère*, 9 (1879): pp. 774-790.

⁴ The translation in *Annuaire de législation étrangère*, 23 (1893): pp. 682-684, old and new texts in parallel columns.

The electoral law in force bears the date of 23 March / 4 April 1897.¹ It received slight modifications in 1898, 1901, 1906, 1907, 1908, 1909, 1910, 1911 (twice) and 1912. Laws of 16/29 March 1903 and 11/24 April 1910 have prescribed the boundaries of the electoral districts.²

CONSTITUTION OF 16/28 APRIL 1879, WITH AMENDMENTS OF 15/27 MAY 1893 AND 11/24 JULY 1911.³

CHAPTER I.—THE TERRITORY OF THE KINGDOM.

ARTICLE 1. The territory of the Kingdom of Bulgaria may not be increased or diminished without the consent of the Grand National Assembly.

ART. 2. The rectification of boundary lines, if this has not been done in inhabited regions, may also be decreed by the Ordinary National Assembly (Article 85).

ART. 3. The territory is divided for administrative purposes into districts, sections (*arrondissements*) and communes.

A special law shall be drafted for the organization of this administrative division on the principle of autonomy for the communes.

CHAPTER II.—THE POWER OF THE KING AND ITS LIMITATIONS.

ART. 4. The Bulgarian Kingdom is an hereditary constitutional monarchy with national representation.

ART. 5. The King is the supreme representative and head of the State.

ART. 6.⁴ The King bears the title of His Majesty the King of the Bulgars; the heir to the throne, that of His Royal Highness.

ART. 7. The King of Bulgaria may not, without the consent of the Grand National Assembly, be at the same time the sovereign of another State.

ART. 8. The person of the King is sacred and inviolable.

ART. 9. The legislative power belongs to the King and the national representation.

ART. 10. The King sanctions and promulgates the laws passed by the National Assembly.

¹ Published in the *Official Journal*, 30 April/12 May. See analysis in *Annuaire de législation étrangère*, 27 (1897) : pp. 789-799.

² These introductory paragraphs are based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d édition, Paris, 1910), vol. II, p. 206-298, with additions based upon the *Annuaire de législation étrangère*.

³ Translated by GEORGE D. GREGORY from the French translation in the *British and Foreign State Papers*, 107 : pp. 615-630. A German translation of the Constitution of 1879 and of the amendments of 1893 is in PAUL POSENER, *Die Staatsverfassungen der Erdteile* (Charlottenburg, 1909), pp. 16-31 and 31-32 respectively.

⁴ As amended 11/24 July 1911.

ART. 11. The King is the supreme head of all the military forces of the country in time of peace as well as in time of war. He confers military rank in accordance with the law. Those who enter upon the military career take an oath of fidelity to the King.

ART. 12. The executive power belongs to the King. All the agencies of this power act in his name and under his high supervision.

ART. 13. The judicial power belongs entirely to the authorities and persons vested with judicial powers, who act in the name of the King. The relations of the King with the judicial authorities are determined by special regulations.

ART. 14. The King has the right to mitigate and commute punishments in accordance with the rules laid down in the law on criminal procedure.

ART. 15. The King has the right of pardon in criminal cases. The right of amnesty belongs to the King conjointly with the National Assembly.

ART. 16. The rights of the King specified in Articles 14 and 15 do not cover sentences passed upon ministers for violations of the Constitution.

ART. 17.¹ The King is the representative of the State in all its relations with foreign countries. The government negotiates and concludes in his name all treaties with foreign countries, which must be sanctioned by the King. The ministers inform the National Assembly thereof as soon as the interests and security of the State permit (Article 92 of the Constitution).

Nevertheless treaties of peace, of commerce, treaties obligating the State finances, those that are in derogation of laws now in existence, treaties relating to the public or civil rights of Bulgarian subjects do not become definitive until they have been voted by the National Assembly.

In no case can the secret stipulations of a treaty nullify the published articles.

ART. 18. Decrees and regulations emanating from the King are executory when countersigned by the respective ministers, who assume entire responsibility therefor.

CHAPTER III.—THE RESIDENCE OF THE KING.

ART. 19.¹ The King is obliged always to reside in the Kingdom. If he leaves it temporarily, he designates a Regency, which shall be conferred upon the Council of Ministers. The rights and the duties of the Regency shall be determined by a special law. The King communicates his departure and the designation of the Regency to the Council of Ministers, which informs the nation thereof through the official journal.

¹ As amended 11/24 July 1911.

ART. 20. The heir to the throne must likewise reside in the Kingdom and may not leave it except with the consent of the King.

CHAPTER IV.—THE ARMS OF THE KINGDOM, THE SEAL AND THE NATIONAL FLAG.

ART. 21. The arms of the Bulgarian State consist of a crowned lion of gold on a dark red field. The shield is surmounted by the royal crown.

ART. 22. The seal of the State shall bear the arms of the Kingdom.

ART. 23. The Bulgarian flag is tricolor and consists of the colors white, green and red arranged horizontally.

CHAPTER V.—THE ORDER OF SUCCESSION TO THE THRONE.

ART. 24.¹ The Royal dignity is hereditary in a direct line by right of primogeniture in the male descendance of His Majesty the King of the Bulgars, Ferdinand I of Saxe-Coburg and Gotha. A special law shall govern the order of succession to the throne.

CHAPTER VI.—THE MAJORITY OF THE KING, THE REGENCY AND GUARDIANSHIP.

ART. 25. The reigning King and the heir to the throne attain their majority at the age of eighteen.

ART. 26. If the King ascends the throne before attaining this age a regency and guardianship are constituted for him until he attains his majority.

ART. 27. The Regency is composed of three regents who are elected by the Grand National Assembly.

ART. 28. The reigning King may also appoint three regents during his lifetime, if the heir to the throne has not attained his majority. But in this case the consent and confirmation of the Grand National Assembly are necessary.

ART. 29. Ministers, the president and members of the Court of Cassation and persons who have filled these offices in an irreproachable manner may be members of the Regency.

ART. 30. Members of the Regency on assuming office take an oath of fidelity to the King and the Constitution before the Grand National Assembly. After which they announce to the nation by proclamation that they have undertaken the government of the country within the limits of the royal power and in the name of the King.

ART. 31. As soon as the King has attained his majority and taken oath, he assumes the government of the country and advises the nation thereof by a proclamation.

¹ As amended 11/24 July 1911.

ART. 32. The education of the King during his minority and the administration of his estates are in the hands of the Queen widow and the tutors appointed by the Council of Ministers with the consent of the Queen.

ART. 33. Members of the Regency may not be at the same time tutors of the minor King.

CHAPTER VII.—ACCESSION TO THE THRONE AND THE TAKING OF THE OATH.

ART. 34. Upon the death of the King the heir ascends the throne and immediately orders the convening of the Grand National Assembly, before which he takes the following oath:

I swear in the name of God Almighty that I shall uphold devoutly and inviolably the Constitution and the laws of the Kingdom and that in all my actions I shall always have in view only the prosperity and welfare of the country. So help me God!

CHAPTER VIII.—MAINTENANCE OF THE KING AND OF THE MEMBERS OF THE ROYAL HOUSE.

ART. 35.¹ The National Assembly fixes by a special law the civil list of the King and of his court.

ART. 36. The National Assembly fixes the amount for the maintenance of the heir to the throne as soon as he has attained his majority.

CHAPTER IX.—RELIGION.

ART. 37. The Orthodox Christian Religion of the Eastern Rite is the State religion of the Kingdom of Bulgaria.

ART. 38.¹ The King may not profess any religion other than the Orthodox. An exception is made in the case of the present King.

ART. 39. As the Kingdom of Bulgaria forms, from an ecclesiastical point of view, an inseparable part of the pale of the Bulgarian Church, it is subject to the Holy Synod, which is the supreme authority of the Bulgarian Church, wherever the seat of that authority may be. It is through it that the Kingdom preserves its union with the Ecumenical Eastern Church in all that pertains to the dogmas of the faith.

ART. 40. Unorthodox Christians and non-Christian inhabitants, whether subjects of the Kingdom or received as such, as well as foreigners permanently or temporarily residing in Bulgaria, enjoy freedom of worship in so far as their religious practices do not violate existing laws.

¹ As amended 11/24 July 1911.

ART. 41. No one may, by virtue of his religious convictions, be exempted from the obligations of the laws in force, which are binding upon everybody.

ART. 42. The ecclesiastical affairs of unorthodox Christians and of non-Christians are governed by the respective religious authorities within the limits of the laws laid down on this subject and under the high supervision of the competent minister.

CHAPTER X.—THE LAWS.

ART. 43. The Bulgarian Kingdom shall be governed strictly in accordance with the laws, which are made and promulgated in the forms indicated in the present Constitution.

ART. 44. No law may be promulgated, completed, modified, or repealed without first being discussed and voted upon by the National Assembly, which also has the right of interpreting its precise meaning.

ART. 45. Every law voted by the National Assembly is submitted to the King for his sanction.

ART. 46. After being sanctioned by the King, the law must be promulgated in full. Mention must be made in the promulgation of the law of its adoption by the National Assembly. No law has any force or effect before its promulgation.

ART. 47. If the State is menaced by some internal or external danger and the National Assembly can not be convened, then, and in this case only, the King may, upon the representations of the Council of Ministers and their joint responsibility, publish ordinances and take measures which will have the same binding force as laws. The extraordinary ordinances and measures shall be submitted to the approval of the first National Assembly which is convened thereafter.

ART. 48. The measures and ordinances mentioned in Article 47 may in no case have for their object the creation of taxes and contributions, which shall always be imposed with the consent of the National Assembly.

ART. 49. The National Assembly alone has the right to decide whether all the formalities prescribed by the present Constitution have been fulfilled in the publication of a law.

ART. 50. Regulations for putting a law into effect and the measures which must be taken to this end are in the hands of the executive power.

CHAPTER XI.—THE PROPERTY OF THE STATE.

ART. 51. The property of the State belongs to the Bulgarian Kingdom, and neither the King nor the members of his family may assume the enjoyment thereof.

ART. 52. The manner in which this property may be alienated or mortgaged, as well as the use to which the revenue therefrom is to be put, shall be prescribed by law.

ART. 53. The property of the State is administered by the competent minister.

CHAPTER XII.—THE CITIZENS OF THE BULGARIAN KINGDOM.

SECTION 1.—GENERAL RULES.

ART. 54. All those who are born in Bulgaria and who have not changed their nationality, as well as those who are born in foreign countries of parents who are Bulgarian subjects, are considered subjects of the Bulgarian Kingdom.

ART. 55.¹ Foreigners may be admitted to Bulgarian nationality by virtue of a law, to be drafted hereafter.

ART. 56. Any subject of the Kingdom may change his nationality after he has completed his period of military service and fulfilled his other obligations toward the State, in conformity with a special law, to be drafted hereafter.

ART. 57. All Bulgarian subjects are equal before the law; no division into classes is tolerated in Bulgaria.

ART. 58.² Titles of nobility and other distinctions can not exist in the Kingdom.

ART. 59.² The King has the right to grant decorations. The creation of decorations takes place by virtue of a special law.

ART. 60. Citizens of the Bulgarian Kingdom alone enjoy political rights. All who dwell within the Kingdom have civil rights in conformity with the laws.

ART. 61. No one in the Bulgarian Kingdom has the right to buy or sell human beings.

Every slave of whatever sex, nationality, or religion is free as soon as he sets foot on Bulgarian territory.

ART. 62. Laws concerning public order and police laws are equally binding upon all who live in the Kingdom.

ART. 63. All immovable property situated in the Kingdom, even though it belongs to foreigners, is governed by the Bulgarian laws.

ART. 64. In all other respects, the condition of foreign subjects in the Kingdom is governed by special laws.

SECTION 2.—THE SERVICE OF THE STATE AND PUBLIC OFFICE.

ART. 65. Bulgarian subjects alone may be officials of the State or of the commune, or be admitted to service in the army.

¹ As amended 11/24 July 1911.

² As amended 15/27 May 1893.

ART. 66. Foreign subjects may also be admitted to the service of the State, subject, however, to the approval of the National Assembly in every instance.

SECTION 3.—THE RIGHT OF PROPERTY.

ART. 67. The right of property is inviolable.

ART. 68. Expropriation may take place only because of public utility and in consideration of a just indemnity. The mode of expropriation shall be determined by a special law.

SECTION 4.—TAXES AND CONTRIBUTIONS LEVIED BY THE STATE.

ART. 69. Every subject of the Bulgarian Kingdom, without exception, is obliged to pay the taxes and contributions established by the laws and to bear the other charges.

ART. 70. The King and the heir to the throne are exempted from all taxes, contributions and other charges.

SECTION 5.—MILITARY SERVICE.

ART. 71. Every Bulgarian subject is liable to military service according to the law to this effect.

ART. 72.¹ A special law shall specify the crimes, imputable to soldiers in active service, that fall within the jurisdiction of the military courts and those that come within the competence of the courts of common law.

SECTION 6.—INVOLABILITY OF PERSON, DOMICILE AND CORRESPONDENCE.

ART. 73.² No one may be subjected to punishment except by virtue of a definite judgment of a competent court.

Neither exceptional tribunals nor commissions of inquiry may be created upon any pretext or under any designation whatever.

In time of war or in case of imminent peril resulting from foreign invasion or an armed insurrection, when the entire country or certain localities have been proclaimed to be in a state of siege, courts martial instituted by law come into operation.

The state of siege is proclaimed by law, if the National Assembly is in session, or by decree on the joint responsibility of the ministers, if the said Assembly is not in session. In the latter case the National Assembly must be convened within five days to approve the decree issued to this effect.

¹ As amended 11/24 July 1911.

² All of this article after Paragraph 1 was added 11/24 July 1911.

ART. 74. Imprisonment and domiciliary visits may take place only in accordance with the rules laid down by law.

ART. 75. No punishment except that prescribed by law may be applied to any one whomsoever.

Torture, as well as the confiscation of property, is prohibited.

ART. 76.¹

ART. 77. The secrecy of private letters and telegrams is inviolable. The responsibility of officials relative to the violation of the secrecy of letters and telegrams shall be governed by a special law.

SECTION 7.—PUBLIC INSTRUCTION.

ART. 78. Primary instruction is obligatory and free to all subjects of the Bulgarian Kingdom.

SECTION 8.—FREEDOM OF THE PRESS.

ART. 79. The press is free. No censorship is permitted. No security shall be required of writers, publishers, or printers. When an author is known and resides in the Kingdom, the publisher, the printer and the distributors shall not be prosecuted.

ART. 80. The Holy Scriptures, ecclesiastical books and works dealing with the dogmas of the Orthodox Church, as well as manuals on religion for use in Orthodox schools, shall first be submitted to the approval of the Holy Synod.

ART. 81. All misdemeanors on the part of the press shall be judged according to law by the ordinary courts.

SECTION 9.—FREEDOM OF ASSEMBLY AND OF ASSOCIATION.

ART. 82. The inhabitants of the Bulgarian Kingdom have the right peaceably to assemble and to discuss unarmed any question without first asking permission. Meetings held in the open air are wholly subject to police regulations.

ART. 83. Bulgarian citizens have the right to form associations without any previous authorization, provided the object of such associations and the means employed do not jeopardize the security of the State, public order, religion, or public morals.

SECTION 10.—THE RIGHT OF PETITION.

ART. 84. Every Bulgarian subject may present petitions to the competent authorities either individually or collectively. Legally constituted institutions may likewise present requests through the intermediary of their representative.

¹ Rescinded 11/24 July 1911.

CHAPTER XIII.—NATIONAL REPRESENTATION.

ART. 85. The representation of the Bulgarian Kingdom consists of a National Assembly, which may be:

1. An Ordinary National Assembly.
2. A Grand National Assembly.

CHAPTER XIV.—THE ORDINARY NATIONAL ASSEMBLY.

SECTION 1.—COMPOSITION OF THE ORDINARY NATIONAL ASSEMBLY.

ART. 86.¹ The Ordinary National Assembly consists of representatives elected by direct vote in the ratio of one deputy for every twenty thousand inhabitants of both sexes. Representatives are elected for four years.

All Bulgarian citizens who have attained the age of 21 years and who enjoy civil and political rights are electors.

Bulgarian citizens enjoying civil and political rights, who have attained the age of 30 and who can read and write, are eligible for election as representatives.

An electoral law shall be drafted.²

ART. 87. Those elected represent not only their constituents, but the whole nation; that is why they may not accept any obligation or instruction from their constituents. Representatives are entirely free in their opinions as to the needs of the country and are guided only by their convictions and conscience.

ART. 88. As soon as the session is opened, the National Assembly, under the presidency of its senior member, proceeds immediately to the election of its president and vice presidents.

ART. 89. The National Assembly elects from among its members as many secretaries as are necessary.

ART. 90. The ministers may attend the meetings of the Assembly and take part in the discussions. The Assembly is obliged to admit the ministers whenever they request the floor.

ART. 91. For the purpose of presenting to the Assembly explanations on the subjects which are submitted, the King may, in the place and stead of the ministers or conjointly with them, appoint special commissioners in the Assembly, who in this case enjoy, like the ministers, the rights designated in the foregoing Article 90.

ART. 92. The Assembly may invite the ministers and commissioners to attend its meetings, in order to furnish such information and explanations as are required. The ministers and commissioners are obliged to present themselves before the Assembly and to comply

¹ As amended 11/24 July 1911.

² See introductory paragraphs preceding this Constitution.

nicate personally the explanations requested. The ministers and commissioners may on their own responsibility preserve silence as to facts, the premature divulging of which might be injurious to the interests of the State.

SECTION 2.—FREEDOM OF OPINION AND INVIOLOABILITY OF MEMBERS OF THE ASSEMBLY.

ART. 93. Every member of the Assembly has the right freely to express his opinion and to vote according to his conviction and his conscience. No one may call him to account for the opinion he has expressed nor prosecute him because of it.

ART. 94. The rights of the president and the responsibility of the members of the Assembly with regard to the rules to be observed in the meetings are determined by a special regulation governing the internal affairs of the Assembly.

ART. 95. Members of the Assembly who during its session shall commit misdemeanors or crimes provided for by the criminal law may not be brought into court except with the authorization of the Assembly.

ART. 96. Members of the National Assembly during the five days preceding the opening and throughout the entire session may not be arrested or tried, unless they are accused of crimes involving the heaviest penalties prescribed by the criminal law. In this case the arrest of a representative must be immediately communicated to the National Assembly, and not until it so authorizes may judicial prosecution be commenced.

ART. 97. Representatives may not be held for debt during the five days preceding the opening and throughout the entire session of the Assembly.

ART. 98. The provisions relating to replacing deceased or retiring members of the Assembly are laid down by the electoral law.

SECTION 3.—PUBLICITY OF THE MEETINGS OF THE NATIONAL ASSEMBLY.

ART. 99. The meetings of the National Assembly are public.

ART. 100. The president, one of the ministers or commissioners, or at least three members of the Assembly may propose to exclude the public from the Assembly chamber. Such a proposal is discussed in secret and decided by a majority vote of the members present.

ART. 101. The decision mentioned in the preceding article (100) is publicly proclaimed by the president.

ART. 102. No one bearing arms may enter the chamber or the building in which the Assembly is sitting.

Military guards and armed forces generally must not be placed at the door of the chamber or in the building of the Assembly itself or in the vicinity of that building, unless a majority of the Assembly so desires.

ART. 103. The Assembly has its own internal police who are under the orders of the president.

ART. 104. The National Assembly makes its own rules for its internal government and the manner in which it shall proceed to examine the questions upon which it is to pass.

CHAPTER XV.—ATTRIBUTIONS OF THE NATIONAL ASSEMBLY.

ART. 105. The attributions of the National Assembly are as follows:

1. To discuss bills, in pursuance of Article 44.
2. To discuss proposals for loans to the State, for the increase, diminution or imposition of taxes and all kinds of contributions, as well as their distribution and the manner of their collection.
3. To decree release from taxes and contributions which are in arrears and the collection of which appears to have become impossible.
4. To discuss the annual budget of receipts and expenditures.
5. To control the expenditure of the sums carried in the budget.
6. To control the operations of the Court of Accounts, which is obliged to present to the Assembly detailed data on the use to which the budget has been put.
7. To put questions as to the responsibility of ministers.

ART. 106. The Assembly has the right to receive all kinds of petitions and requests and to transmit them to the respective ministers. It has the right to appoint commissions of inquiry in all the branches of the administration.

Ministers are obliged to furnish explanations when the Assembly asks for them.

ART. 107. The members of the Assembly have the right to address interpellations to the government: the government and the respective ministers are obliged to reply thereto.

CHAPTER XVI.—RULES RELATING TO THE PRESENTATION AND EXAMINATION OF BILLS AND PROPOSALS.

ART. 108. The King and the National Assembly have the right to initiate legislation.

ART. 109. Bills and proposals are presented to the National Assembly by the respective ministers at the command of the King.

Any representative in the National Assembly may likewise present bills or proposals if he is supported by one fourth of the members present.

ART. 110. Any bill or proposal presented to the National Assembly may be withdrawn so long as it has not been passed as a whole.

ART. 111. The National Assembly may amend, complete, or correct bills which are presented to it.

ART. 112. If the government does not consent to the amendments, additions, or corrections in the bills presented by it, it may withdraw them or present them again in their original form, with explanations and remarks; or it may present them with the amendments and additions which it deems it advisable to introduce therein.

ART. 113. If the Assembly rejects a bill in its entirety, it may not be again presented to the Assembly without modification at the same session. Such a bill may be presented at another session.

ART. 114.¹ Bills presented to the National Assembly may not be voted unless more than one third of all the representatives are present at the meeting.

ART. 115.¹ The members of the Assembly are required to vote in person and in public. The vote may, however, be in secret if at least ten members so request and if their request is granted by the National Assembly.

ART. 116. The Assembly decides questions by a majority vote.

ART. 117. In case of a tie vote, the bill or proposal is considered defeated.

ART. 118. The King must make known to the Assembly, during its session, his decision on every resolution which is passed by the Assembly and submitted to him.

CHAPTER XVII.—THE BUDGET.

ART. 119. The budget is submitted every year to the National Assembly for discussion.

ART. 120. As soon as the budget is voted by the National Assembly, it is submitted to the King for his sanction.

ART. 121.² The National Assembly discusses the proposed budget article by article.

ART. 122. When the Assembly can not be convened and there are necessary emergency expenses to be provided for, the budget for the preceding year remains in force on the responsibility of the ministers until the National Assembly approves the expenditures made. This approval must be given at the next following session.

¹ As amended 15/27 May 1893.

² As amended 11/24 July 1911.

CHAPTER XVIII.—STATE LOANS.

ART. 123. No loan may be contracted without the consent of the National Assembly.

ART. 124. If it should become necessary to contract a loan, when the legislature is not in session, to meet extraordinary emergency expenses, the Assembly is convened immediately in extraordinary session.

ART. 125.¹ If there are serious obstacles in the way of convening the National Assembly, the King, on the initiative of the Council of Ministers, may decree a loan up to the sum of three million francs, on condition that such loan be submitted to the approval of the next National Assembly.

ART. 126.¹ As regards expenses for which no credit has been opened, the King may, in such cases and in accordance with the formalities indicated in the preceding article (125), order them to be defrayed from the treasury funds, but on condition that all such expenses shall not exceed the sum of one million francs.

ART. 127.² The King convenes the National Assembly regularly every year. The session lasts from 15 October to 15 December [old style] and from 15 January to 15 March [old style]. But the Assembly may be convened in extraordinary session, if important matters are on its program.

CHAPTER XIX.—THE CONVENING OF THE ASSEMBLY.

ART. 128. The place where the Assembly is to sit and the length of its session, as set forth in Article 127, are fixed by the convocation decree signed by the King.

ART. 129. The ordinary session of the Assembly may be prolonged if the King and the National Assembly mutually consent thereto.

ART. 130. The King opens and closes the Assembly in person or through a delegate specially designated for that purpose by procurement.

ART. 131. Prior to the opening of the Assembly all its members take, simultaneously and according to the forms of their religion, the following oath:

I swear in the name of the Only God to respect and defend the Constitution and in the performance of my duties in this Assembly to have always in view the welfare of the nation and of the King according to the dictates of my reason and my conscience. So help me God! Amen!

ART. 132. Members of the clergy do not take this oath, but so solemnly promise to act always according to the dictates of their con-

¹ As amended 15/27 May 1893.

² As amended 11/24 July 1911.

science with a view to the common good of the country and of the King.

ART. 133. At the opening of the Assembly the King's speech sets forth the condition of the country and indicates the bills and proposals which are to be submitted to the consideration of the Assembly.

ART. 134. In reply to the royal speech, the Assembly presents an address to the King.

ART. 135. After convening the Assembly, the King may prorogue the session for two months at most. A further prorogation in the course of the same session may not take place except with the consent of the Assembly itself.

ART. 136. The King may dissolve the Assembly and order new elections.

ART. 137. The new elections must take place within two months at most and the new Assembly must be opened within not more than four months from the date of the dissolution of the preceding National Assembly.

ART. 138. The members of the National Assembly may not meet in session unless they are convened by the King; neither may they meet after the adjournment, closure, or dissolution of the Assembly.

ART. 139.¹ All representatives receive per diem compensation. Traveling expenses, however, are not allowed except to those who do not reside in the locality where the National Assembly meets.

CHAPTER XX—THE GRAND NATIONAL ASSEMBLY.

SECTION 1.—ATTRIBUTIONS OF THE GRAND NATIONAL ASSEMBLY.

ART. 140. The Grand National Assembly is convened by the King, by the Regency, or by the Council of Ministers.

ART. 141.¹ The King convenes the Grand National Assembly:

1. To discuss questions of the session or exchange of some part of the territory of the Kingdom.

2. To pass upon the case provided for by Article 7 of the Constitution.

3. To modify or revise the Constitution.

There must be a vote of two thirds of all the members of the Assembly.

ART. 142. The Grand National Assembly may not be convened by the Regency except for the purpose of considering questions of the alienation or exchange of some part of the Kingdom.

These questions are decided by a majority of the members of the Assembly present.

¹ As amended 15/27 May 1893.

ART. 143. The Council of Ministers convenes the Grand National Assembly:

1. To elect a new King in case the reigning King dies without leaving an heir. The election is decided by a majority of two thirds of the members of the Assembly present.

2. To elect regents during the minority of the King. The election is decided by a majority of the Assembly present.

ART. 144.¹ The Grand National Assembly is composed of representatives elected directly by the people. The number of these deputies must be double that of the members of the Ordinary National Assembly, in the ratio of two representatives to every twenty thousand inhabitants of both sexes. The elections shall take place in accordance with a special electoral law.

SECTION 2.—COMPOSITION OF THE GRAND NATIONAL ASSEMBLY.

ART. 145. The president, the vice-presidents and the required number of secretaries are elected by the Assembly from among its members. Until these elections have taken place the senior member occupies the presidential chair.

ART. 146. The Grand National Assembly may take up only the questions enumerated in Articles 141–143, for which it has been convened according to the Constitution, and it is dissolved immediately after it has decided them.

ART. 147. Articles 87, 90, 93, 104, 114, 115, 131 and 132 of the present Constitution are applicable also to the Grand National Assembly.

CHAPTER XXI.—THE GRAND BODIES OF THE STATE: THE COUNCIL OF MINISTERS, THE MINISTRIES.

ART. 148. The grand bodies of the State are:

1. The Council of Ministers.
2. The Ministries.

ART. 149. The executive power, under the high supervision and direction of the King (Article 12), belongs to the ministers and their Council.

ART. 150. The Council of Ministers is composed of all the ministers; one of them is appointed President of the Council by the King.

ART. 151. Aside from their regular duties in ordinary times, the Council of Ministers in certain cases set forth below is vested with the following rights and duties:

1. In case the King should die without issue, the Council of Ministers assumes the government of the Kingdom and convenes

¹ As amended 15/27 May 1893.

within one month the Grand National Assembly to elect the new King.

2. The Council of Ministers assumes the government also in case the King should not have appointed a Regency before his death. The Grand National Assembly must be convened within one month for the election of regents (Paragraph 1).

3. If the Queen widow is pregnant at the death of the King, the Kingdom is governed by the Council of Ministers until the Queen's delivery.

4. If one of the regents should die, the Council of Ministers convenes the Grand National Assembly for the election of a successor to the deceased regent, in accordance with the provisions of Paragraph 2.

5. The Council of Ministers, on assuming the government of the country in the cases mentioned in the present article (Paragraphs 1-4), makes this fact known to the nation by a proclamation.

6. As long as the Council of Ministers is in charge of the government of the Kingdom, there can be no change of ministers.

7. The members of the Council of Ministers, when they are provisionally in charge of the government of the country, receive only their salaries as ministers.

ART. 152. Ministers are appointed and dismissed by the King.

ART. 153. Ministers are jointly responsible to the King and the National Assembly for all measures taken in common, and each one is personally responsible for his acts within the limits of his attributions.

ART. 154. Every official act signed by the King must be countersigned, according to its character, either by all the ministers or by the minister concerned.

ART. 155. Charges may be brought against ministers by the National Assembly for treason against the country or the King, for violations of the Constitution, for corruption in office or injuries to the Kingdom in the furtherance of personal ends.

ART. 156. Every accusation against a minister must be presented in writing, with an enumeration of all the charges, and must be signed by at least one fourth of the members of the National Assembly.

ART. 157. A majority of two thirds of the members of the Assembly present is necessary in order to place a minister on trial.

ART. 158. Ministers are tried by a special court of the State, the composition of which shall be determined by a law.

ART. 159. The King may not pardon a minister without the consent of the National Assembly.

ART. 160. The execution of the laws is entrusted to the grand bodies of the State called the ministries.

ART. 161.¹ The ministries are ten in number:

1. The Ministry of Foreign Affairs and Worship.
2. The Ministry of the Interior and Public Health.
3. The Ministry of Public Instruction.
4. The Ministry of Finance.
5. The Ministry of Justice.
6. The Ministry of War.
7. The Ministry of Commerce, Industry and Labor.
8. The Ministry of Agriculture and Domains of the State.
9. The Ministry of Public Works.
10. The Ministry of Railways, Posts and Telegraphs.

ART. 162. A minister is placed at the head of each ministry.

ART. 163. The King has the right of appointment to all the of
of the State.

ART. 164. Every official takes an oath of fidelity to the King
the Constitution.

ART. 165. Every official is responsible for acts pertaining to
duties.

ART. 166. All officials appointed by the government are entitle
a pension, the basis and amount of which shall be determined b
special law.

CHAPTER XXII.—THE MODE OF REVISION AND MODIFICATION C THE CONSTITUTION.

ART. 167. Proposals for the modification or revision of the Cor
tution are made in the manner prescribed for the making of l
(Articles 108 and 109).

ART. 168. In order to be adopted, the proposals referred to in
preceding article must receive a majority of more than two third
all the members of the National Assembly present.

ART. 169. The Grand National Assembly is convened to exan
the proposals mentioned in Article 167 and decides, by a two-thi
majority of its members present, questions concerning the modif
tion or revision of the Constitution.

¹ As amended 11/24 July 1911.

CHINA.

On 12 February 1912, as the result of a revolution, the oldest of monarchies became a republic. The settlement at the close of the revolution, which united the northern and southern provinces into the Republic of China, included among its terms the permanent union of North and South China and the abdication of the Emperor. Delegates from seventeen provinces met in Nanking and drafted a Provisional Constitution, which was promulgated by the Provisional President, Dr. Sun Yat-sen, on 11 March 1912. This Provisional Constitution, consisting of 56 articles, made provision (Article 53) for a National Assembly, which first met on 8 April 1913 as a bicameral body and initiated the drafting of a permanent Constitution. Before the completion of the draft, Articles 56-62, respecting the election of a President and Vice President, were passed by the Assembly and Yuan Shih-k'ai was elected President. The entire draft Constitution of 113 articles was completed and submitted on 3 November 1913 to the two houses of the National Assembly, but, before it could be adopted, Yuan, because he suspected complicity in the rebellion along the Yangtse River, unseated the Kuo-ming-tang members or Democrats—a fact which destroyed the quorum of both houses and in effect dissolved the National Assembly. Yuan thereupon appointed a Council of State (Ts'an Chêng Yuan), which in turn appointed a committee to draw up a new constitution. This is the Constitutional Compact of the Chung Hua Min Kuo of 68 articles, promulgated on 1 May 1914,¹ by which Yuan became a virtual dictator. Attempts to revert to a monarchy were checked only by the death of Yuan on 6 June 1916. The Provisional Constitution of 11 March 1912 was then revived, and in September the National Assembly was reconvened. The revision of the draft Constitution was immediately taken up and was nearly completed when the National Assembly was suddenly dissolved in June 1918.²

¹ Cf. *The China Year Book*, 1916, pp. 437-443.

² These introductory paragraphs are based upon MIN-CH'EN T. Z. TYAU, *China's New Constitution and International Problems* (Shanghai, 1918), which gives a brief history of the constitutional development, an analysis of the permanent Constitution so nearly adopted in 1918 and an estimate of the latter in comparison with the Provisional Constitution and the constitutions of other countries. Cf. also *The Statesman's Year Book* (1917 and 1918) and *The China Year Book* (1916).

PROVISIONAL CONSTITUTION OF 11 MARCH 1912.¹**CHAPTER I.—GENERAL PROVISIONS.**

ARTICLE 1. The Republic of China is composed of the Chinese people.

ART. 2. The sovereignty of the Chinese Republic is vested in the people.

ART. 3. The territory of the Chinese Republic consists of 22 provinces, Inner and Outer Mongolia, Tibet and Chinghai.

ART. 4. The sovereignty of the Chinese Republic is exercised by the Advisory Council, the Provisional President, the Cabinet and the Judiciary.

CHAPTER II.—CITIZENS.

ART. 5. Citizens of the Chinese Republic are all equal, and there shall be no racial, class or religious distinctions.

ART. 6. Citizens shall enjoy the following rights:

1. The person of the citizens shall not be arrested, imprisoned, tried or punished except in accordance with law.

2. The habitations of citizens shall not be entered or searched except in accordance with law.

3. Citizens shall enjoy the right of the security of their property and the freedom of trade.

4. Citizens shall have the freedom of speech, of composition, of publication, of assembly and of association.

5. Citizens shall have the right of the secrecy of their letters.

6. Citizens shall have the liberty of residence and removal.

7. Citizens shall have the freedom of religion.

ART. 8. Citizens shall have the right of petitioning the executive officials.

ART. 9. Citizens shall have the right to institute proceedings before the judiciary and to receive its trial and judgments.

ART. 10. Citizens shall have the right of suing officials in the administrative courts for violation of law or against their rights.

ART. 11. Citizens shall have the right of participating in civil examinations.

ART. 12. Citizens shall have the right to vote and to be voted for.

ART. 13. Citizens shall have the duty to pay taxes according to law.

ART. 14. Citizens shall have the duty to enlist as soldiers according to law.

¹ Translation from the *Peking Daily News*, verified by the Chinese Secretary of the American Legation, Peking, China, and published in *Supplement to the American Journal of International Law*, 6 (1912): pp. 149-154. A French translation is in the *Annuaire de législation étrangère*, 12 (1912), pp. 598-602.

Art. 15. The rights of citizens as provided in the present chapter shall be limited or modified by laws provided such limitation or modification shall be deemed necessary for the promotion of public welfare, for the maintenance of public order or on account of extraordinary exigency.

CHAPTER III.—THE ADVISORY COUNCIL.

Art. 16. The legislative power of the Chinese Republic is exercised by the Advisory Council.

Art. 17. The Advisory Council shall be composed of members elected by the several districts as provided in Article 18.

Art. 18. The Provinces, Inner and Outer Mongolia and Tibet shall each elect and depute five members to the Advisory Council and Chinghai shall elect one member.

Art. 18. The election districts and methods of elections shall be decided by the localities concerned.

During the meeting of the Advisory Council each member shall have one vote.

Art. 19. The Advisory Council shall have the following powers:

1. To pass all law bills.
2. To pass the budgets of the provisional government.
3. To pass laws of taxation, of currency, and of weights and measures for the whole country.
4. To pass measures for the calling of public loans and to conclude contracts affecting the national treasury.
5. To give consent to matters provided in Articles 34, 35 and 40.
6. To reply to inquiries from the provisional government.
7. To receive and consider petitions of citizens.
8. To make suggestions to the government on legal or other matters.
9. To introduce interpellations to members of the cabinet and to insist on their being present in the Council in making replies thereto.
10. To insist on the government investigating into any alleged bribery and infringement of laws by officials.
11. To impeach the Provisional President for high treason by a majority vote of three fourths of the quorum consisting of more than four fifths of the total number of the members.
12. To impeach members of the cabinet for failure to perform their official duties or for violation of the law, by majority votes of two thirds of the quorum consisting of over three fourths of the total number of the members.

Art. 20. The Advisory Council shall itself convoke, open and adjourn its own meetings.

ART. 21. The meetings of the Advisory Council shall be conducted publicly, but secret meetings may be held at the instigation of members of the cabinet or by the majority vote of its quorum.

ART. 22. Matters passed by the Advisory Council shall be communicated to the Provisional President for promulgation and execution.

ART. 23. If the Provisional President should veto matters passed by the Advisory Council, he shall, within ten days after he received such resolutions, return the same with stated reasons to the Council for reconsideration. If the same matter should again be passed by a two-thirds vote of the quorum of the Council, it shall be dealt with in accordance with Article 22.

ART. 24. The President of the Advisory Council shall be elected by ballots signed by the voting members, and the one who receives more than one half of the total number of the votes cast shall be elected.

ART. 25. Members of the Advisory Council shall not, outside the Council hall, be responsible for their opinions expressed and votes cast in the Council.

ART. 26. Members of the Council shall not be arrested without the permission of the President of the Council, except for crimes committed at the time of arrest and for crimes pertaining to civil and international warfare.

ART. 27. Procedures of the Advisory Council shall be decided by its own members.

ART. 28. The Advisory Council shall be dissolved on the day of the convocation of the National Assembly and its powers shall be exercised by the latter.

CHAPTER IV.—THE PROVISIONAL PRESIDENT AND VICE-PRESIDENT.

ART. 29. The Provisional President and Vice-President shall be elected by the Advisory Council, and he who receives two thirds of the total amount of votes cast by a sitting of the Council consisting of over three fourths of the total number of members shall be elected.

ART. 30. The Provisional President represents the provisional government as the fountain of all executive powers and for promulgating all laws.

ART. 31. The Provisional President may issue or cause to be issued orders for the execution of laws and of powers delegated to him by the laws.

ART. 32. The Provisional President shall be the commander-in-chief of the army and navy of the whole of China.

ART. 33. The Provisional President shall ordain and establish the administrative system and official regulations, but he must first submit them to the Advisory Council for its approval.

ART. 34. The Provisional President shall appoint and remove civil and military officials, but in the appointment of members of the Cabinet, ambassadors and ministers, he must have the concurrence of the Advisory Council.

ART. 35. The Provisional President shall have power, with the concurrence of the Advisory Council, to declare war and conclude treaties.

ART. 36. The Provisional President may, in accordance with law, declare a state of siege.

ART. 37. The Provisional President shall, representing the whole country, receive ambassadors and ministers of foreign countries.

ART. 38. The Provisional President may introduce bills into the Advisory Council.

ART. 39. The Provisional President may confer decorations and other insignia of honor.

ART. 40. The Provisional President may declare general amnesty, grant special pardon, commute a punishment and restore rights, but, in the case of a general amnesty, he must have the concurrence of the Advisory Council.

ART. 41. In case the Provisional President is impeached by the Advisory Council, he shall be tried by a special court consisting of nine judges elected among the justices of the Supreme Court of the realm.

ART. 42. In case the Provisional President vacates his office for various reasons, or is unable to discharge the powers and duties of the said office, the Provisional Vice-President shall take his place.

CHAPTER V.—MEMBERS OF THE CABINET.

ART. 43. The premier and the chiefs of the government departments shall be called members of the Cabinet.¹

ART. 44. Members of the Cabinet shall assist the Provisional President in assuming responsibilities.

ART. 45. Members of the Cabinet shall countersign all bills introduced by the Provisional President and all laws and orders issued by him.

ART. 46. Members of the Cabinet and their deputies may be present and speak in the Advisory Council.

ART. 47. After members of the Cabinet have been impeached by the Advisory Council, the Provisional President may remove them from office, but such removal shall be subject to the reconsideration of the Advisory Council.

¹ Literally, secretaries of State affairs.

CHAPTER VI.—THE JUDICIARY.

ART. 48. The judiciary shall be composed of those judges appointed by the Provisional President and the Chief of the Department of Justice.

The organization of the courts and the qualification of judges shall be determined by law.

ART. 49. The judiciary shall try civil and criminal cases, but cases involving administrative affairs or arising from other particular causes shall be dealt with according to special laws.

ART. 50. The trial of cases in the law courts shall be conducted publicly, but those affecting public safety and order may be in camera.

ART. 51. Judges shall be independent and shall not be subject to the interference of higher officials.

ART. 52. Judges during their continuance in office shall not have their emoluments decreased and shall not be transferred to other offices, nor shall they be removed from office except when they are convicted of crimes, or of offences punishable according to law by removal from office.

Regulations for the punishment of judges shall be determined by law.

CHAPTER VII.—SUPPLEMENTARY ARTICLES.

ART. 53. Within ten months after the promulgation of this Provisional Constitution, the Provisional President shall convene a national assembly, the organization of which and the laws for the election of whose members shall be decided by the Advisory Council.

ART. 54. The Constitution of the Republic of China shall be adopted by the National Assembly, but before the promulgation of the Constitution, the Provisional Constitution shall be as effective as the Constitution itself.

ART. 55. The Provisional Constitution may be amended by the assent of two thirds of the members of the Advisory Council or upon the application of the Provisional President, and being passed by over three fourths of the quorum of the Council consisting of over four fifths of the total number of its members.

ART. 56. The present Provisional Constitution shall take effect on the date of its promulgation and the fundamental articles for the organization of the provisional government shall cease to be effective on the same date.

COSTA RICA.

The State of Costa Rica was not established as an independent republic until 21 January 1847, nine years after the dissolution of the Central American Confederation. Its Constitution as a federal State, which dated from 2 January 1825, then gave way to a new Constitution,¹ which underwent a reform on 22 November 1848.² From 1848 to 1859 Costa Rica attained to a remarkable degree of prosperity. New Constitutions were established 26 December 1859,³ 18 February 1869⁴ and 7 December 1871,⁵ the last of which was amended several times⁶ and was in force actually or nominally until the Constitution of 8 June 1917 was promulgated.⁷

CONSTITUTION OF 8 JUNE 1917.⁸

[PREAMBLE.]

We, the representatives of the people of Costa Rica, having legitimately assembled to revise the political Constitution and to proceed to the total reformation thereof, in order to secure upon solid bases the common welfare and the benefits of liberty, and of a government adapted to the general necessities and conveniences, decree and sanction the following political Constitution.

CHAPTER I.—THE REPUBLIC AND THE GOVERNMENT IN GENERAL.

ARTICLE 1. Costa Rica is and shall remain a free and independent Republic.

It may, however, form a single political unit with one, several, or all of the other Republics of Central America.

¹ English translation in *British and Foreign State Papers*, 35: pp. 44-73.

² English translation in *British and Foreign State Papers*, 37: pp. 777-793.

³ English translation in *British and Foreign State Papers*, 50: pp. 1092-1111.

⁴ English translation in *British and Foreign State Papers*, 59: pp. 216-235.

⁵ English translation of Constitution of 7 December 1871 in *British and Foreign State Papers*, 63: pp. 294-313. Spanish text of Constitution of 1871 with amendments to 1905 in PAUL FOMER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 1096-1113; the same with English translation in parallel columns in J. I. RODRIGUEZ, *American Constitutions*, vol. I (Washington, 1906), pp. 326-357.

⁶ English translations of the amendments of 26 April 1882 and 12 May 1897 are in *British and Foreign State Papers*, 73: pp. 608-609, and 89: p. 1129, respectively.

⁷ This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 566-567.

⁸ Translated by ANTONIO M. OPISSO from the official Spanish text as printed in *La Gaceta* of 18 June 1917.

The treaties of union which may be concluded for this purpose shall be submitted to Congress at the next ordinary session; should Congress approve said treaties by a vote of two thirds of the members present, it shall issue a call to the towns of the Republic to elect a Constituent Assembly for the sole purpose of ratifying or rejecting them.

Should the Assembly ratify said treaties by a vote of three fourths of the total number of its members, they shall become final and binding on the Republic. In this event it belongs to the Assembly to dictate the necessary laws for executing and carrying out said treaties.

ART. 2. The sovereignty resides essentially and exclusively in the nation, from whom public powers emanate, which powers are limited and must be exercised in accordance with the provisions of this Constitution.

ART. 3. No public authority shall validly enter into compacts, agreements, or treaties which may jeopardize the sovereignty and independence of the Republic. Whoever is guilty of this attempt shall be held as a traitor.

The foregoing provision shall not prevent public treaties from being concluded and approved for a political union as provided for in Article 1; nor treaties to modify the boundaries of the national territory; nor those providing for the construction of any inter-oceanic canal which may affect the sovereignty over a part of the territory; nor treaties for the alienation of any island belonging to the State, situated at a distance of over one hundred miles from the coast.

In order that the treaties which may be concluded for any of the last three mentioned purposes may become valid, they shall be submitted to Congress at two different terms of session, whether ordinary or extraordinary, with an interval of two months at least between each term, and must be approved by a vote of three fourths of the total number of its members.

Railways and tramways belonging to the State and devoted to the public service can not be alienated. Neither can they be leased out unless a law should provide so in each case by a vote of two thirds of the respective chamber.

ART. 4. The government of the Republic is popular, representative, alternative and responsible.

It shall be vested in three different powers independent of each other, to be known as the legislative, the executive and the judicial powers.

The legislative power shall never grant omnimodous powers to the executive, or delegate to it the power to legislate; nor shall the legislative or the executive power in any case exercise judicial functions (except as provided for in the case of the Senate sitting as a court for political trials), nor take jurisdiction on pending cases or ask for

these to be brought before them *ad effectum videndi*, nor cause the reopening of finished cases.

ART. 5. The territory of the Republic, which is situated between the Atlantic and Pacific Oceans, is bounded on the northwest by the Republic of Nicaragua, from which it is separated by the line established in the Treaty of Cañas-Jerez of 15 April 1858, and by Cleveland's Award of 22 March 1888. It is bounded on the southeast by the Republic of Panama, from which it is separated by the line established by Loubet's Award of 11 September 1900, the Anderson-Porrás Treaty of 17 March 1910 and by White's Award of 12 September 1914.

ART. 6. No one shall assume the title of sovereign, and whoever should do so shall be prosecuted in accordance with the Penal Code.

No authority shall assume powers not granted to it by law.

Public officials are not owners, but mere depositories of authority. They are subject to the laws; they shall never be considered or held as superior to them, and they are directly and immediately responsible for the acts they may execute in the exercise of their functions. The action to accuse them shall be popular.

No venal employments are recognized.

ART. 7. All orders emanating from the legislative or executive powers which are contrary to the Constitution shall be null and void and without effect, whatever be the form in which they may be issued. Courts of justice shall not obey or apply them in any case.

All acts of those usurping public powers, and all employments given without the requirements demanded by the Constitution, or in default thereof, without the requirements provided by law, shall also be null and void.

ART. 8. The Roman Catholic Apostolic religion is the religion of the State. The State shall contribute to its support without thereby preventing the free exercise of any other form of worship which does not oppose universal morals or good customs.

The declaration referred to in this article does not affect existing legislation, nor hinder in any way the freedom of action of public powers in regard to any national interests.

ART. 9. Primary education shall be obligatory and gratuitous.

The State shall take charge of the public primary schools as well as of normal schools.

Primary schools which are supported by private individuals shall be under the supervision of the government.

The State shall maintain the institutions for secondary education now in existence, and has the power to create other centers of the same character and to contribute to their support and to that of professional schools which may be established either by public or private initiative. It has likewise the power to reestablish the University.

All Costa Ricans or foreigners are free to give or receive the instruction which they may deem convenient in those establishments which are not supported by public funds.

ART. 10. It is the duty of the State to look after the welfare of the working classes, and for this purpose it shall enact all necessary laws; in default of social initiative it shall promote, and in all cases it shall support to the extent of its resources, such institutions as may have for their object to harmonize, on the basis of justice, the relations between patrons and workmen, and those which tend to meliorate the financial status of the latter and to assist them in case of illness, old age or accident, cessation of work or other misfortunes independent of their will.

ART. 11. Every public official shall take an oath in accordance with the following formula :

Do you swear before God, and do you promise to your country to observe and defend the Constitution and the laws of the Republic, and to faithfully fulfill the duties of your office?

I do.

If you do so, may God help you; if not, may He and the country demand it from you.

ART. 12. The military force is subordinated to the civil power; it is essentially passive and must never deliberate.

CHAPTER II.—INDIVIDUAL GUARANTEES.

ART. 13. All men are equal before the law.

The State does not grant nobility titles or hereditary prerogatives or honors, nor does it recognize those granted by another nation.

It does not admit in any form the institution of slavery. The slave who arrives at Costa Rican territory shall, by that very fact, be held and treated as a free man.

ART. 14. No law shall be given retroactive effect to the prejudice of any person or of his vested rights.

ART. 15. The right of property is inviolable, and no one shall be deprived of his property except by virtue of a judicial decree, and for reasons of public utility judicially declared, and after payment of the actual value of both the property and the resulting damages which may be proved, all as appraised by experts.

In case of war or of internal disturbances, and only for the purpose of attending to the national defense or to the restoration of public order, the administrative authority shall declare the need of expropriation without previous indemnity. In this event real property shall be temporarily occupied only for military purposes or to devote the proceeds thereof to the needs of the army. The State is always liable for the expropriations, which the executive may make, either by himself or through his agents.

No law shall provide that private property shall become the property of the State in case that the owner thereof should have given it an inexact value for the purpose of taxation, and that the State, either by itself or through a third party, may offer to take it for the appraised value and a premium.

Mines may be claimed even on private land, but they shall not be worked or adjudicated without previous payment to the owner of the surface for the value of the land to be occupied and the damages resulting therefrom, as the authorities may order and experts may appraise.

ART. 16. No one shall be prevented from engaging in any profession, industry, commerce or work he may desire, provided they are lawful. This right shall only be restricted by a judicial decree whenever the rights of a third party are impaired or by an administrative order issued in accordance with the law, whenever the public security or health or the interests of the nation demand it.

The law shall determine what professions require a degree and what conditions must be fulfilled in order to obtain said degree.

Foreigners may engage in the liberal professions provided Costa Ricans enjoy the same rights in their respective countries.

ART. 17. No person shall be imprisoned for debts of purely civil character.

ART. 18. Private actions which do not affect public order or morals or which do not result to the injury of a third party are beyond the pale of law.

ART. 19. No one shall be molested or prosecuted for any act which does not violate the law, nor for any written or spoken statement of his political opinions. Nevertheless, neither clergymen nor laymen shall in any manner make political propaganda invoking motives of religion or making use, as a means for such propaganda, of the religious beliefs of the people.

ART. 20. No one shall do justice by himself, or execute any acts of violence to enforce his rights. The power to judge civil and criminal cases belongs exclusively to the tribunals of justice.

ART. 21. All Costa Ricans or foreigners must apply to law to seek redress for the injuries or damages which they may have suffered in their person, property, or honor. Prompt and full justice must be dealt in strict conformity with the laws.

Courts of justice shall not be excused from exercising their authority on the ground of lack of legal provision, which may settle the litigation or conclude the case submitted to their decision. If there is no law applicable, they shall apply the general principles of law and of eternal justice.

ART. 22. All Costa Ricans or foreigners have the right to terminate their civil suits by means of arbiters before or after having started legal proceedings.

ART. 23. The same judge shall not sit in different stages (*instancias*) in the same case.

ART. 24. No penalty shall be imposed which has not been provided previously for the crime or misdemeanor of which one may be guilty.

All penalties are personal. No torture, infamous penalties or confiscation of property shall be imposed. The latter provision does not prevent confiscation of the instruments or objects used in the commission of the crime.

ART. 25. No one shall be tried by a specially appointed commission court or judge, except by the court designated and previously established by law.

Only those who are guilty of the crime of sedition and rebellion and the members of the army who are in active service shall be subject to military jurisdiction for crimes of any kind which they may commit. Those armed bodies, which, according to the law, are militarily regulated are to be considered as military bodies.

Ordinary courts shall take cognizance of appeals and writs of error which may be taken or brought in military cases. Any judgment or order dismissing a case can always be taken up in consultation.

ART. 26. No one shall be compelled to testify against himself in a criminal case brought against him. Nor shall his spouse, descendants, ascendants, brothers by blood or affinity be compelled to testify against the accused.

ART. 27. No penalty shall be imposed without the accused having been heard and convicted by a court, and until the judgment rendered by a competent judge or authority imposing such penalty has become final.

Physical constraint in civil matters is excepted.

ART. 28. Criminal procedure laws must secure in an efficient manner the right of defense of the accused, and consequently, the right to have his plea heard, to have his proofs admitted and to be defended by the person he may choose, and in default thereof, by a person appointed by the court.

ART. 29. Human life is inviolable.

ART. 30. No one shall be arrested without information that he has committed an offense and without written order from a judge or authority entrusted with the preservation of public order, except when the accused has been declared a fugitive from justice.

A person caught in the act may be arrested without previous order by any person for the sole purpose of bringing him before the competent authority.

No person shall be kept under arrest for more than three days without a formal warrant of arrest stating the crime which is imputed to the person arrested and the place, time and circumstances thereof, and all the facts brought out by the summary investigation.

Wardens of prisons shall not receive any one as a prisoner without noting down in the register book the warrant of arrest emanating from the official who has the power to issue it. They may, however, receive as detention prisoners, those who are brought in to be presented to the judge or competent authority, but they are obliged to report to the latter within twenty-four hours.

ART. 31. Every inhabitant of the Republic is entitled to the writ of *habeas corpus*.

ART. 32. All persons may, in times of peace, enter or leave the Republic, travel through its territory and change their residence.

The exercise of this right of free locomotion is subject to the powers of the authority in cases of criminal, civil or police liability, and to the provisions of the law, in so far as it relates to emigration, immigration and general health or the administrative expulsion of non-desirable foreigners.

ART. 33. The dwelling of the inhabitants of the Republic is an inviolable asylum which shall only be entered in the special cases designated by law, and by virtue of an order emanating from the proper authority.

ART. 34. Postal and telegraphic correspondence is inviolable.

Private letters and papers shall only be intercepted, taken or registered by public officials through an order emanating from the proper authority in such cases and under such formalities as are established by law, and for the sole purpose of procuring legal evidence to be presented in criminal cases which are not of a political nature. Papers or private letters which are procured by any other means shall not constitute valid proof.

ART. 35. Any one may communicate his thoughts by spoken or written words or through the agency of the press without previous censoring, but shall be liable for any offense committed in the exercise of this right in such cases and manner as the law may provide.

ART. 36. All the inhabitants of the Republic have the right to assemble peacefully and without arms, for the purpose of engaging in private business or to discuss political matters, and examine the public conduct of government officials. In order to assemble in the streets, squares, and other public places, it shall be necessary to give notice to the political authorities of the place, for the purpose of preserving order.

ART. 37. The right of petition may be exercised individually or collectively. But no person or number of persons may take up the

representation of the people, assume its rights, or make petitions on its behalf. Any one doing so shall be guilty of sedition.

ART. 38. The individual guarantees set forth in the six foregoing articles shall be suspended when the Republic is in imminent peril, either by foreign aggression or by internal upheaval. The suspension shall extend to all these guarantees or to one or more of them, either throughout the whole territory of the Republic or only in a part thereof, and shall last not more than thirty days.

The suspension shall be decreed by Congress at the request of the executive, by two thirds of the votes of the members present.

The executive shall, in regard to persons, only order their detention in a place not set apart for common culprits, or decree their confinement in inhabited and healthy places. In no case shall the executive torment or vex them. He shall report to Congress at its next session all measures taken to preserve public order or maintain the security of the State. These measures shall cease immediately after the guarantees are restored.

During the recess of Congress, the executive shall, in the Council of Ministers, decree this suspension under the terms and with the limitations aforesaid, and shall immediately report to the legislative power. The decree of suspension in the latter case shall amount to a call to Congress to convene at twelve o'clock on the day following that in which the order has been published. Should Congress not confirm this measure by a vote of two thirds of the members present, the guarantees shall be considered reestablished.

CHAPTER III.—NATIONALITY AND CITIZENSHIP.

ART. 39. The following are Costa Ricans, by birth or origin:

1. The legitimate children of a Costa Rican father, and the illegitimate children of a Costa Rican mother, wherever they may be born.

2. The illegitimate children of a foreign mother, born in Costa Rica, and under 21 years of age, acknowledged by a Costa Rican father with the consent of the mother.

3. A child born or found in Costa Rican territory whose parents or nationality are unknown.

4. The legitimate children of a foreign father and the illegitimate children of a foreign mother born in Costa Rica, who, by their own will, register in the civil registry after reaching the age of 21 years, or before reaching this age, with the consent of their father or mother.

5. The inhabitants of the Republic who have acquired the Costa Rican nationality of origin in accordance with former laws, and who have not lost this nationality afterwards in accordance with the law.

ART. 40. The following are naturalized Costa Ricans:

1. Costa Ricans who, after having lost their nationality, recover it in accordance with the law.

2. Foreigners who heretofore should have acquired the status of naturalized Costa Ricans in accordance with the law, and have not lost it.

3. A foreign woman who marries a Costa Rican. She shall retain her status even if she becomes a widow.

4. Foreigners of good conduct and with known business and means of living, who after having resided five years in the country should obtain naturalization papers in accordance with the law. The period of residence shall be reduced to one year for natives of any of the Republics of Central America.

5. Foreigners who render or have rendered important services to the State, or who are people of great ability or of great scientific or artistic culture, or who bring with themselves interesting inventions or open great establishments of positive benefit to the country shall obtain from the executive power the Costa Rican nationality, after having resided one year in Costa Rica.

Naturalization of a foreigner carries with it that of his wife and minor children under 21 years. The latter may, however, on reaching their twenty-first year, choose the nationality of origin.

ART. 41. The following lose their Costa Rican nationality:

1. Costa Ricans who become naturalized in a foreign country.

2. Those who, without the consent of the government, accept titles or decorations conferred by a foreign government, unless said titles are literary or scientific, in which case they may be freely accepted.

3. Those who, without special permission from the government, enter the military service of a foreign nation or enlist in a foreign military body.

4. The illegitimate child of a Costa Rican mother, on being acknowledged, with her consent, by his foreign father, provided that by the law of the respective country said child acquires that nationality.

5. Any Costa Rican woman who marries a foreigner. She shall preserve her foreign nationality unless, according to the law of her husband's country she does not acquire the latter's nationality, since in such case she shall continue to be a Costa Rican.

6. He who in any manner and for any reason asks for or provokes the intervention of any foreign Power against the Republic, or takes refuge in a legation or in a warship of a foreign nation or in any other place protected by the privilege of extraterritoriality, in order to elude the national laws or authorities. Costa Ricans who

lose their nationality by the first of the causes enumerated in this paragraph can never recover it.

ART. 42. No citizen or subject of a nation with which Costa Rica may be at war, nor those who have been declared in other countries to be pirates, slave traders, guilty of incendiarism, counterfeiters of coin, of bank notes, of Treasury notes or of other documents of public credit, murderers, plagiarists or robbers, shall be granted Costa Rican nationality.

ART. 43. The naturalization of a foreigner shall become void by residence in his country of origin for two consecutive years, unless he resides therein in the discharge of an official commission of the Costa Rican government or with the permission of the latter.

ART. 44. The law shall determine the means and the manner by which Costa Rican nationality may be recovered.

ART. 45. The following are the duties of Costa Ricans: to obey the Constitution and the laws, to serve and defend the country and to contribute to the public expenses. They are furthermore obliged to cause their children or wards to attend public or private schools in order to obtain primary elementary education, during the time which the law may designate.

ART. 46. Costa Rican citizens are all male persons who, besides having the status of Costa Ricans have the following requisites:

1. To have reached the age of 21 years, or of 20 years if they have a professional title recognized by the State.

2. To own some property or to have some honest trade, the proceeds or profits of which may be sufficient to support them in relation to their social standing.

3. To be registered in the civil registry of the district where they are domiciled.

4. Beginning from 1 January 1927, in order to be a Costa Rican citizen, it shall be required furthermore to know how to read and write, or to have registered property to the value, at least, of 500 colons, or to be over 50 years of age.

ART. 47. Citizenship is lost together with Costa Rican nationality. The exercise of citizens rights may be suspended, lost and recovered for the causes designated by law.

ART. 48. Those who have lost their citizenship, except in case of treason to the country, may have their rights restored by the executive, when a petition for this grace is legally founded.

ART. 49. Foreigners enjoy in the territory of the nation the same civil rights as the citizens, and they may exercise them as the nationals.

They are under obligation to contribute to the public expenses in the manner provided by law, but not to pay extraordinary obligatory taxes.

They are exempt from military duty. Those who are domiciled in the country are obliged, however, to do police duty in abnormal cases, when the security of the property or the preservation of order in the same town where they live so demand it, subject to the exceptions in regard to this provision stipulated in the treaties which Costa Rica may have concluded with the respective countries.

Foreigners must obey and respect the institutions, laws and authorities of the country, and submit themselves to the findings and judgments of the courts, without making use of any other recourses than those granted to citizens by the laws.

They do not enjoy political rights and must, on the contrary, refrain from participating in any manner in the political matters of the country.

Notwithstanding the aforesaid provisions, the government may expel, in accordance with the law, any foreigner whose permanent residence in the country may be deemed inadvisable.

CHAPTER IV.—SUFFRAGE.

ART. 50. Suffrage is an essentially political function and belongs exclusively to the citizens in the exercise of their rights: the act of voting, being personal, may only be executed by a citizen who has himself the right to do so.

ART. 51. Direct suffrage shall be exercised:

1. By citizens domiciled in each district, to elect a municipal syndic and substitute.
2. By citizens domiciled in each district, to elect an intendant and municipal alderman as well as their respective substitutes.
3. By citizens domiciled in each province, to elect deputies and senators and their substitutes.

The election which embraces three or more functionaries of the same kind shall be made by the system of proportional representation.

ART. 52. Popular elections shall be held on the first Sunday in March, every three years, beginning from 1922 inclusive. At these elections one half of the senators, one half of the deputies and one half of the aldermen, as well as the municipal syndics and intendants, shall be elected.

ART. 53. To exercise the right to vote it is required that the citizen be provided with a personal certificate which shall be given to him free of cost. On casting his vote it must be noted in this certificate that the citizen to whom it belongs has already voted in the corresponding election.

ART. 54. No authority shall arrest any citizen or elector during the hours of voting, except in case of *flagrante delicto*. Nor shall he be required to render military service.

The public official, who shall dictate or attempt to dictate to his subordinates or to any voter the manner in which he is to vote, shall lose his position and his rights as citizen and shall be punished according to law.

No military forces shall be located at the polls or near them. Only the president of the board shall have the right to arrange for the police service in the voting precinct and its immediate surroundings, for the maintenance of order.

ART. 55. The election of deputies, senators, municipal officers, intendants, vice-intendants and syndics shall be made by direct vote in accordance with the system in force. The election of President and Vice-President of the Republic shall be made by a secret ballot by an electoral college composed of the deputies and senators both sitting and substitutes, of the sitting aldermen of all the municipalities of the Republic and of all those persons who have occupied for a period not less than six months, the office of President of the Republic, Secretary or Under-Secretary of State, deputy, senator, or justice.

The election of justices of the Supreme Court of Justice shall be made by the Senate, choosing from among the lists of three candidates which the Chamber of Deputies and the executive power shall each present.

There shall be a quorum for election if three fourths of the members of the college meet; and the person receiving the absolute majority of the votes present shall be considered elected.

The president of the Senate shall preside over these electoral acts: in his absence, the president of the Chamber of Deputies, and in the absence of both, the senior senator present.

If, after two ballots, no one should be elected and more than three candidates should have been voted for, the president shall order a new balloting with the understanding that, if on this third ballot an absolute majority in favor of a candidate is not obtained, the balloting shall be continued, limited only to the three candidates who have obtained the greatest number of votes, and that the election shall proceed for two consecutive times. For this purpose, and if by reason of a tie it should be impossible to determine who are the three candidates with the highest number of votes, the necessary name or names shall be eliminated by lot in order to leave only three candidates from whom the election shall proceed.

If after two ballots limited to three specified names no election should have been made, the president shall order a new voting turn with the understanding that if by absolute majority does not result in favor of one of the candidates, the voting shall continue only as to the two highest candidates. Should it be impossible to determine

who are the two candidates obtaining the greatest number of votes, either for the reason that all three of them are tied, or because two of them have the same number of votes, one of the names of the three candidates in the first case, and of the two candidates tied in the second case, shall be eliminated by lot.

In the event that the voting being proceeded with only on specified candidates as provided for in the foregoing paragraphs, there should appear on a ballot an absolute majority in favor of a different candidate, the college shall declare elected the one who under such conditions obtained said majority. But if such majority should not appear, the president shall require the voters to proceed to vote exclusively between the two or three names which are being discussed, and shall apply to the candidate obtaining the greater number of votes those votes given to candidates not authorized, as well as blank ballots.

After the balloting has been limited to two names, the college shall continue in permanent session until one of them is elected.

After the election of the President has been completed, the election of the Vice-President shall be proceeded with without delay in accordance with the same principles heretofore explained.

ART. 56. The election of the President and of the Vice-President shall take place on the first Sunday in April of the year in which the presidential term expires. The college shall convene for that purpose at the capital of the Republic, even without previous convocation. Should there be no quorum on that day, the election shall be postponed to the following day. At this second meeting one half of the members of the college shall be sufficient to constitute a quorum. Should no quorum be present at that second meeting, the president shall order that the election be proceeded with on the following day with any number of persons present.

ART. 57. The members of the electoral college shall enjoy immunity from fifteen days before that on which the election of the President is to take place, and while said election has not been terminated, except in cases of *flagrante delicto*.

ART. 58. A special law shall regulate the elections upon the bases hereinbefore outlined so as to secure liberty and the order in the voting.

CHAPTER V.—THE LEGISLATIVE POWER.

ART. 59. The legislative power shall be vested in a Congress composed of two chambers, one of senators, and the other of deputies, whose members, in both, are elected directly by the citizens, and may be reelected indefinitely.

Each province shall be considered for this purpose as an electoral district, and shall elect a sitting deputy for every 15,000 inhabitants

or fraction thereof over 7,500; one substitute deputy for every three and fraction of three sitting deputies, and a substitute senator for every three or remainder of three sitting senators corresponding to it. Even if the number of deputies and senators of a province does not reach the number of three, a substitute shall always be elected.

In order to determine the number of sitting deputies, attention shall be paid to the result of the last official census, and the most recent figures given out by the Department of National Statistics, correcting or enlarging the census.

There shall be no elections by reason of the increase in population except every ten years.

Senators and deputies, although elected by provinces, represent the whole nation, and they must consult only justice and the common welfare. They can not compromise their votes prematurely.

Deputies and senators shall, upon assuming office, take the constitutional oath. The President shall take his oath before the Chamber, and the deputies and senators before the president of the respective chamber.

ART. 60. To be a deputy or a senator the following requisities must be filled:

1. To be a citizen in the exercise of his rights.
2. To be a native of the Republic, or naturalized therein, and have resided ten years after having obtained naturalization papers.
3. To know how to read and write.
4. To be the owner of property of a value of not less than 3,000 colons, or to have a professional degree recognized by the State, or an annual income of 1200 colons, at least.

To be a deputy it shall be also necessary to be over 25 years of age, and to be senator, over 40 years of age.

ART. 61. The following may not be elected deputies or senators:

1. The President of the Republic or any one who exercises the executive power at the time of election.
2. The ministers of State.
3. The justices of the Supreme Court of Justice.
4. Those who exercise jurisdiction or authority over the whole province making the election.

No one can hold the office of deputy and senator at the same time. Should the same person be elected for both offices, the election for senator shall prevail. Should the same citizen be elected deputy or senator of two or more provinces, he shall represent the province which he may choose. A deputy may be elected senator, but a senator shall not be elected deputy.

ART. 62. Deputies and senators shall hold office for a period of six years.

The members of each one of the chambers shall be renewed by halves every three years. The first renewal shall be made by lot in 1922.

Whenever the exact one half can not be renewed because the number of sitting or substitute deputies or senators is odd, the half of the inferior even number shall first be renewed, and the renewal of the odd senator or deputy shall be left for the following term.

ART. 63. In order to fill up the temporary or absolute vacancy of a sitting deputy, the substitutes of the respective provinces shall be called in the order of their appointment, appearing in the act corresponding to the election of the person whom they are to replace. Should there be no substitute at that time, those elected in the other three-year period shall be called in the same order.

This principle shall also be observed when the vacancy of a senator is to be filled. In none of the foregoing cases shall the fact of calling a substitute to replace a sitting member imply that his term of office shall exceed the period of six years.

Whenever the number of substitutes is exhausted, the respective chamber may order that new substitutes be elected at the next renewal election.

ART. 64. The office of deputy or senator, either sitting or substitute, is incompatible with that of alderman or municipal employee, or with any other salaried public office, function or commission of the same character. As an exception, however, the office of professor in any school supported or subsidized by the State shall not be incompatible, if the appointment is made by the board of directors of the school. No sitting deputy or senator or substitute who is discharging the duties of the sitting member, may, during ordinary or extraordinary sessions, accept from the executive any salaried commission or any employment dependent upon, or by appointment of the executive, except the office of minister of State, or chief of a diplomatic mission.

Whenever the chambers are not in session the deputy or senator may accept employment by appointment of, or dependent upon the executive power.

Both during sessions and in recess, a deputy or senator may freely accept judicial offices.

But in any case in which he should accept employment or office from any other branch of the government in the foregoing terms, he shall lose his seat in the chamber, except when he is appointed head of a diplomatic mission.

ART. 65. No deputy or senator, either sitting or substitute, shall enter, directly or indirectly, into any contract with the public administration by virtue of which he may enjoy some privilege or

concession. Nor shall it be lawful for him to receive any amount from the public Treasury, except that allotted to the office which he discharges, and in its proper case, the value of the contracts which are published in the *Diario Oficial*, or of services, the payment of which is ordered in the same public manner. A deputy or senator violating this prohibition shall *ipso facto* lose his seat in the chamber, and must return the sums unlawfully received.

ART. 66. Deputies and senators are immune for the opinions which they may express, or the votes they may give in the discharge of their duties.

During the sessions their property shall not be attached to further legal civil proceedings except upon the deputy's or senator's own consent.

They shall not be accused, prosecuted or arrested from the time they are declared elected either as sitting or as substitute members until the expiration of their legal term of office, except in cases of *flagrante delicto*, and unless the Chamber of Deputies previously authorizes the accusation, and declares that there is cause for an action against them.

A deputy or senator who is arrested in *flagrante delicto* shall be placed immediately at the disposal of the Chamber of Deputies, with a summary record of the case, so that he may be suspended from his legislative duties and be delivered to the proper judge or be set free, as the case may be. Should the chambers not be in session, the deputy or senator shall be set free, upon furnishing bond of from one to five thousand colons, according to the importance of the offense.

ART. 67. The legislative chambers shall meet every year on 1 May, without need of previous convocation.

The ordinary sessions shall last until 31 July inclusive.

They shall convene in extraordinary session whenever, by reason of high national interests they are convoked by the executive power, and they must also convene in the case provided for in Article 38.

If, on 1 May, Congress should be assembled in extraordinary session, the latter shall cease, and it shall continue to consider in ordinary session the business for which it should have been convoked.

ART. 68. The Senate and the Chamber of Deputies shall open their ordinary and extraordinary sessions at the same time.

The Senate, however, may meet without the presence of the Chamber of Deputies for the exercise of the powers given to it in the first paragraph of Article 78.

If, after the expiration of the ordinary period, there should remain some accusations pending against the officials designated in Article 77, the Chamber of Deputies shall continue its sessions without the

presence of the Senate for the exclusive purpose of declaring whether or not the charges shall be filed.

Neither of the chambers, while working simultaneously, shall, without the consent of the other, suspend its sessions for more than three days.

Arr. 69. The chambers shall not open their sessions nor exercise their legal functions without the concurrence of two thirds of their members. When, upon the arrival of the day appointed to open their sessions, they can not do so, or in case that, after the sessions have been opened, they can not continue on account of a lack of quorum, the members present, whatever be their number, shall exert pressure on the absent members in accordance with their respective regulations.

The sessions of the chambers shall be public, except when for reasons of general convenience, it is agreed to consider some special matter in secret session.

Arr. 70. The seat of Congress shall be in the capital of the Republic.

Notwithstanding, it may move to another place if so decided by two thirds of the votes.

In case of disturbance of the public order, the chambers shall meet at the place designated by the president of the Senate.

Any meeting of the members of Congress which takes place outside of the constitutional requirements, for the purpose of exercising the legislative power, shall be illegal, and all acts executed in that manner shall be considered null and void. The persons who take part in those deliberations shall be punished according to law.

Arr. 71. Each chamber shall draw up its own convenient regulations for the order and direction of its work and for all matters pertaining to its internal policing. The regulations shall not contain any provision contrary to the Constitution; and once adopted they shall not be modified unless upon compliance with the procedure required for all laws, excepting the sanction of the executive.

In accordance with its regulations, it may correct its members and impose on them correctional penalties including the forfeiture of their salary and suspension up to the period of eight days.

Arr. 72. Each chamber shall pass upon the credentials of its members, and shall accept the resignations which the latter may present, if the reasons given are just.

It shall elect yearly its board of directors. The president must possess the qualifications required for the office of President of the Republic. In case of absolute vacancy of one of the members of the board of directors, the respective chamber shall designate a substitute to fill his place for the remainder of the year.

ART. 73. The regulations of each chamber or of Congress in joint session, shall be passed by an absolute majority of the votes present unless the Constitution requires a superior number.

For the latter case, and for any other case wherein an absolute majority is required, this majority shall be constituted by one half plus one, if the total number is even; should this number be odd a unit shall be added, and one half of the resulting number shall constitute the absolute majority.

In order to fix, in the proper case, the two thirds or the three fourths, the exact arithmetical calculation shall be made. Should the result be a whole number and a fraction, the majority shall be formed by adding a complete unit instead of a fraction to the whole number of the arithmetical result.

The presidents of the chambers shall vote only in case of a tie.

ART. 74. Each chamber, and Congress in the proper case, may call for the ministers of State to give the explanations and information which it may be convenient to demand from them.

ART. 75. It is forbidden to Congress and to each one of the chambers:

1. To address any exhortative communication to public officials;
2. To interfere, either through resolutions or laws, in matters which are of the exclusive competence of the other powers.
3. To pass resolutions lauding or disapproving official acts.
4. To demand from the government information on the instructions given to the diplomatic ministers, or a report on negotiations of a secret nature.
5. To delegate in one or several of its members the powers conferred upon it by this Constitution.

ART. 76. Congress shall meet as a single body to exercise the following powers, which are within its exclusive jurisdiction:

1. To install the President and Vice-President of the Republic and the justices of the Supreme Court, except in the case provided for in Article 96.
2. To decide upon the resignations or the excuses which may be presented by said officials.
3. To decide upon any doubts which may arise in regard to the incapacity of the President, according to Article 91.
4. To approve or disapprove the treaties and public agreements which the executive power may conclude.
5. To decide upon a declaration of war at the request of the executive power, or to demand from him in due time the opening of negotiations for peace.
6. To decide whether or not the sessions are to be removed to another place, and to designate such place.

7. To give or refuse its consent to the entry of foreign troops into national territory, or the stationing of fleets in its ports.

8. To suspend the individual guarantees, and to take cognizance of the suspension decreed by the executive power in the case provided for in Article 38.

9. To deliberate upon the revision of the Constitution as explained in Article 124.

10. To approve or disapprove the laws which may determine, declare or order direct or indirect taxes.

In these cases, the president of the Senate and that of the Chamber of Deputies shall act as president and vice-president of Congress respectively.

ART. 77. The following are the attributions of the Chamber of Deputies:

1. To enact, interpret, modify and repeal the laws which it may dictate.

2. To authorize the municipalities, either by a general or a special law, to establish local taxes or imposts, fixing specifically in the law what property may be taxed, and the maximum to be reached in each case; to arrange for the manner in which the municipal budget is to be formed and liquidated, and to designate the powers of the municipalities, which may be more extensive for the senatorial districts of the provinces; and in general, to publish municipal ordinances in accordance with bases laid down in this Constitution.

3. To fix in each legislative period the budget of expenditures of the public administration for the ensuing year, and wherever necessary, the budget for extraordinary expenditures. In the budget law shall be stated the amount of the floating debt which may be created during the fiscal year; and the executive may within that limit carry out any credit transaction. He may also do so in order to cover the expenditures authorized, in case the revenues are not sufficient for that purpose. In other cases, a legislative authorization shall be necessary to pledge the national credit: this principle, however, shall not impair the rights of third parties acting in good faith.

4. To fix at each legislative period the maximum limit of the armed forces which may be placed on duty in times of peace, as well as the increase which the executive may decree in case of foreign war, or of armed insurrection.

5. To create new districts upon the fulfillment of the condition required in Article 116, and to point out their limits and the limits of the provinces.

6. To decree the alienation of the property of the nation, or the application thereof for public uses.

7. To specially empower the executive to negotiate loans or to enter into other contracts upon mortgage security of the national revenue.

The contracts which may be approved by the chambers without alteration shall not be vetoed by the executive, but they shall be vetoed if they are amended. The amendments introduced by Congress shall be subject to acceptance by the interested party.

8. To fix the allow, weight and standard and denomination of the coin, and to arrange for a system of weights and measures as well as to enact the laws which must regulate banking institutions of all kinds.

9. To confer military degrees from colonel upwards.

10. To grant personal and honorary prizes to those who have rendered great and important services to the Republic, and to decree memorial honors.

11. To examine the annual reports of the ministers of State, and the general account of the expenses of the Treasury. The latter shall first be examined by a committee of two of its members selected on by each chamber; said chamber may demand from the proper part all kinds of explanations and vouchers.

12. To promote whatever may form the prosperity of the State to care especially for the health and hygiene of the towns, and to encourage the study of science, arts and trades as well as immigration, agriculture, industry and commerce.

13. To take jurisdiction on the accusations which may be brought against the President of the Republic or the person acting as such against the deputies, senators, justices of the Supreme Court of Justice, or ministers of State, for common offenses committed by them; and to declare by a two-thirds vote whether or not there is ground to institute proceedings against them. In the affirmative case it shall suspend the accused official and shall place him at the disposal of the Supreme Court of Justice for trial.

14. To take cognizance of the accusations which may be filed against the aforesaid officials for offenses involving liability, committed during the exercise of their duties, and likewise to declare whether or not there is ground to institute proceedings against them. In the affirmative case, to place the accused official at the disposal of the Senate for trial.

15. To take cognizance of the accusations which may be filed within the legal term against the Ex-President of the Republic or the person who has acted as such, or against the ministers of State, for offenses involving political or official liability, in accordance with

Article 102, and likewise to declare whether or not there is ground to institute proceedings against them. In the affirmative case, it shall place the accused official at the disposal of the Senate for trial.

16. All the other powers enumerated in this Constitution.

ART. 78. The following are the attributions of the Senate:

1. To judge the functionaries enumerated in the foregoing article whenever they are accused by the Chamber of Deputies of offenses involving political or official liability. Two thirds of the votes shall be necessary to declare the accused guilty. No penalty shall be imposed by the Senate other than dismissal from office, temporary or absolute deprivation of political rights, or inability to hold public office. This provision shall not prevent ordinary courts of justice from enforcing against them any other civil or criminal liability which they might have incurred.

2. To pass upon the nullity of the elections and the other irregularities of the popular suffrage and of the electoral college.

3. To enact and order the publication of the codes lacking, and to decree the amendments of the existing codes.

4. To approve or disapprove the loan contracts which may be entered outside of the country, after the contract has been approved by the Chamber of Deputies.

5. To approve or disapprove the contracts which the government may enter into, when on account of the nature and importance of the subject matter the executive power or the Chamber of Deputies, at the request of one third of the votes of the members present, considers necessary the sanction of the Senate.

6. To approve or disapprove any bill passed by the Chamber of Deputies, either in the event that the latter should consider it convenient to refer the bill by the vote of one third of the members present, or that the executive, before sanctioning said bill, should refer it to the Senate for review.

7. All the other powers enumerated in other places in this Constitution.

ART. 79. During the ordinary sessions of Congress the bills shall originate in either of the chambers according to their respective attributions, at the proposal of the respective members, or in the executive power through the ministers of State.

The Supreme Court of Justice, sitting in bench, shall by a majority of votes, also propose the enactment, amendment, or abrogation of civil, penal, and procedure laws, and of the organic laws of the Courts of Justice; and for this purpose submit to the Senate the respective bill.

The bills submitted to the chambers may not be signed by more than two of their members.

Only the executive power, through the ministers, shall submit bills during the extraordinary sessions provided they refer to matters which are included in the decree of convocation, or in the decree of extension.

ART. 80. No bill shall become a law unless the following requisites have been fulfilled:

1. To have undergone in the Chamber, or in the latter and in the Senate as the case may be, three different debates on three different days.

2. To have been approved in the Chamber, or in the latter and the Senate, or in Congress, as the case may be.

3. To have obtained the sanction of the executive power, or be within one of the cases in which, according to this Constitution, said sanction may be taken for granted, or is not necessary.

ART. 81. After the bill has been approved by the Chamber, following three debates, without any amendment, it shall be sent to the Senate for review in the proper case, or to the executive power for sanction. Should the bill be disapproved in whole in the Chamber, it shall not be presented again until the following legislative period.

The chambers have the reciprocal right to propose the amendments and alterations which they may deem convenient to the bills under consideration, until they come to a final agreement as to the terms in which said bills are to be drafted when submitted to the approval of the executive. Should both chambers consider it proper, they may meet in joint session, to discuss the points of disagreement; but the voting on the bill shall be made by each chamber separately.

ART. 82. Should the executive power also approve the bill passed by one or both chambers, as the case may be, he shall affix thereto the formula, "Let it be executed," and shall cause the same to be published as a law of the Republic.

In the contrary case, and if he does not consider proper that the Senate should revise it, he shall return the bill to the respective chamber. The order of return shall be written at the foot of the bill and signed by the President of the Republic, and by the corresponding minister of State, who shall furthermore send a detached statement of the reasons on which the executive bases his disapproval, or the changes, suppressions or additions which he desires to be made.

In order that a bill be considered objected to by the executive power, it is indispensable that it be returned in the manner specified within the precise term of ten days (exclusive of Sundays and holidays) - beginning from that in which the bill has been received by the respective ministry. Should it not be done within that time, the executive shall not refuse his approval or refrain from publishing it.

If, during the said period of ten days, the chambers should adjourn, and the executive should veto the bill, said bill must be published, together with his veto, in the official journal, at the latest, three days after the expiration of the time granted for the veto. Should it not be done, the bill shall be considered as a law of the Republic.

ART. 83. After a bill has been vetoed by the executive power within the legal term, it shall again be discussed in three debates in case the bill should have been objected to as a whole, or in two debates if the executive should have offered some amendments. Should the chamber agree by a majority of votes to the refusal of the executive, the bill shall be placed on file, and shall not be presented again until the following legislative term. Should the chamber accept by a majority of votes the suggestions made by the executive, or if by a two-thirds vote it should reject the opposition or suggestions of the aforesaid power, and ratify the bill as it was passed, said bill shall be referred again to the Senate if the ratification of the latter is needed, where it shall undergo the same procedure indicated in this article.

Should the Senate, in its turn, agree by a majority of votes to the refusal of the executive, the bill shall be placed on file, and shall not be presented again until the following legislative period. Should the suggestions of the executive be approved by a majority of votes, or if the opposition of the suggestions made by the executive should be rejected by a two-thirds vote, and the bill should be ratified as it was passed originally, it shall be returned to the executive, who shall not then withhold his approval.

ART. 84. If the opposition of the executive is based on the fact that the law is unconstitutional, and the chambers should reenact it, it shall be referred to the Supreme Court of Justice to decide the matter within ten working days. Should the majority of all the Justices of the Supreme Court decide that the bill is constitutional, it shall be the duty of the executive to give it his approval. In the contrary case, the bill shall be considered disapproved, and shall be placed on file.

ART. 85. Should the executive fail to comply with his duty to approve the laws within the time and in accordance with the manner provided in this Constitution, the president of the Senate shall approve the same and cause them to be published in the official journal. If in spite of the order of this official the law should not be published within forty-eight hours in the official journal, the publication shall be made in any of the newspapers of the country.

ART. 86. The bills remaining pending at the end of a legislative period of the chamber shall be considered as new bills in the following ordinary sessions in case that at this second legislative period there

should have been a renewal of deputies. Otherwise, the interrupted debate may be continued.

Those which at the end of the legislative period should be left pending in the Senate, shall likewise be considered as new bills in the same case of renewal of Senators.

ART. 87. The following resolutions shall not require the approval of the executive, and shall be published without need thereof:

1. Those regarding the elections which must be made in accordance with this Constitution or with the international treaties, or with their respective regulations, or those with regard to the resignation or excuses which may be presented.

2. Those that decree the removal of their seat to another place.

3. Those regarding whether or not there is ground to institute proceedings against public officials, as provided in Article 77, or those suspending or sentencing said officials.

4. The regulations which they might adopt for the conduct of their internal affairs.

ART. 88. Every law or decree of Congress shall be headed as follows:

The Senate, the Chamber of Deputies, or the Congress of Costa Rica, in the use of the powers granted to it by the Constitution of the Republic, decrees: * * *

The president and the secretaries shall sign on behalf of each chamber.

The President of the Republic of Costa Rica—whereas the Chamber of Deputies, the Senate, or Congress, has decreed as follows: * * * Therefore I command that the foregoing law be published and obeyed.

The president and the respective ministers of State shall sign.

CHAPTER VI.—THE EXECUTIVE POWER.

ART. 89. The executive power shall be exercised by a citizen whose title shall be President of the Republic, with the indispensable collaboration of the ministers of State, the number of whom shall be fixed by law.

The President shall despatch with each minister the current matters of public business pertaining, according to law, to that particular ministry.

Bills to be presented to the legislature, those received from it for sanction, the budget bill, matters for which this Constitution requires presidential sanction, and in general all matters of great weight and importance, shall be considered and decided by the President in the Council of Ministers.

ART. 90. There shall be a Vice-President of the Republic, elected for the same term as the President, who will serve during the absence temporary or permanent, of the President.

In case of the permanent absence of the Vice-President of the Republic, the president of the Senate, or failing him, the president of the Chamber of Deputies shall replace the President during the temporary or permanent absence of the latter, and until he returns to office or the pending presidential term ends, as the case may be. If the president of the Chamber of deputies is called to act as President, during the temporary absence of the president of the Senate, and there be occasion to replace the President of the Republic by reason of his permanent absence, he shall hand over the Presidency to the president of the Senate as soon as the cause for the latter's absence ceases.

If the absence of the Vice-President be temporary and should temporary or permanent absence of the President occur, the president of the Senate shall assume the Presidency, or failing him the president of the Chamber of Deputies; but when the occasion for the absence of the Vice-President ceases, the latter shall be President.

The president of the Senate or the president of the Chamber of Deputies, when called to the Presidency by law, shall continue therein for the time hereinbefore stated, even though their respective appointments shall have terminated. If the term of each as senator or deputy shall not have expired at the time they give up the office, they shall recover their seats in the Senate or in the Chamber, as the case may be, until their terms end.

ART. 91. Should the President die, the Vice-President, or failing him, his lawful successor, shall by right become President.

Should the President resign his office and his resignation be accepted, the Congress shall call the Vice-President or his lawful successor to the Presidency.

Should the President be suspended or deprived of his office, according to this Constitution, the Chamber of Deputies when suspending him or the Senate when depriving him of office, shall call to the Presidency the Vice-President or his lawful successor.

When the President shall have become morally or physically unfit for the office, the Congress, if it be in session, or, if it be adjourned, then as soon as it be called in session by the Minister of the Interior (*Ministro de Gobernación*), within the fixed term of three days, shall consider the circumstances of the case and decide whether the Presidency is to be regarded as vacant. Should it decide in the affirmative, it shall call to the Presidency the Vice-President or his lawful successor. In default of such a resolution, the Council of Ministers, presided over by the Minister of the Interior, shall govern.

ART. 92. If the President should become so ill as to make it difficult for him to discharge his duties, he may turn over the Presidency to the Vice-President or his lawful successor.

When the President shall decide to direct military operations at time of war outside of the capital, he shall call upon the Vice-President, or failing him, his lawful successor, to take charge of the other branches of the government.

In no case may the President relinquish his office without permission of the Senate, which shall then call the Vice-President or his lawful successor, to the Presidency.

ART. 93. To be President or Vice-President of the Republic it is required:

1. That one be a born Costa Rican and a citizen in the exercise of his rights.
2. To be over 30 years of age.
3. To be a layman.
4. To be the owner of property worth 5,000 colons, or to have an annual income of 3,000 colons or a professional title recognized by the State.
5. To know how to read and write.

ART. 94. He is ineligible for the office either of President or Vice-President who is:

1. The ascendant or descendant or brother, by blood or affinity of whoever shall be in exercise of the functions of President of the Republic at the time of the election, or who shall have exercised them within the year previous.
2. The titular or temporary Vice-President who may be in power at the time of the election or who shall have been in power within the year previous.

Equally ineligible for the office of President is:

1. He who may be minister of State at the time of the election or shall have been such within the year previous.
2. The officer having military command of a city or district at the time of the election or anyone who by blood or affinity shall be his ascendant, descendant or brother.

The President of the Republic shall not be reelected for the term following his own, even though he may have resigned or in any other way lost his office. Neither shall the Vice-President be elected for the term following his own.

Any deputy or senator may be elected Vice-President and do not thereby lose his seat in the chamber, save only for the time he may fill the office.

The President and Vice-President shall not be related to each other by blood or affinity, as ascendant, descendant or brother.

ART. 95. The President shall be in office six years. At the end of such period he ceases by that very fact to exercise his functions.

ART. 96. The office of President and that of Vice-President are obligatory and the President and Vice-President elect shall assume

office on the eighth day of May. On taking office they shall take the oath required by law.

If for any grave reason the President be unable to take the oath on the day named, the Vice-President shall act as President.

In such case the President elect shall take the oath during the ordinary session of Congress; but should the impediment continue and the chambers adjourn, he shall take the oath as President before the Vice-President who is acting in his stead, with the ceremonies prescribed for the occasion.

ART. 97. The salary of the President shall not be increased or diminished except for the following term.

ART. 98. The President shall not leave the territory of the nation while in office, nor for a year after the day he has ceased therefrom, without securing the permission of the Senate in both cases.

This prohibition applies to the titular or temporary Vice-President during the time he is in office and for the following year.

ART. 99. The following are the duties and attributions of the President of the Republic, outside of those enumerated in the other articles of this Constitution :

1. To freely appoint and remove the ministers of State and governors of provinces, and other employees depending upon him. To appoint and remove in the Council of Ministers the diplomatic ministers and the consuls general of the Republic.

2. To maintain public order throughout the territory, and to restore it wherever it has been disturbed, and to provide for the internal security of the Republic, defend the independence and the honor of the nation and the inviolability of its territory.

3. To declare war upon another nation with the consent of Congress, without prejudice of the right of repelling any foreign aggression when urgently required.

4. To conclude and ratify treaties of peace which have been submitted to the approval of Congress.

5. To assume the command of the army as commander-in-chief thereof, or to delegate these functions when he should deem it convenient; and to direct, whenever he may deem it proper, the war operations as such commander-in-chief.

6. To grant military grades up to and including that of lieutenant-colonel, and to issue corresponding certificates for grades conferred by himself or by Congress.

7. To comply with and execute the Constitution and the laws, and cause others through its agents and subordinate employees to do likewise; and to see that the public officials who are not subordinate to it shall also comply with and execute the said Constitution and laws, applying for that purpose to their immediate superiors.

8. To take care of the exact collection and administration of public revenues and wealth, and to decree the disbursement thereof, in strict accordance with the law.

9. To conduct the relations with other nations; to receive diplomatic ministers and to admit the consuls of others nations; to conclude treaties and agreements with the governments of the other countries and to exchange them after ratifications, which must be given by Congress.

10. To grant naturalization papers in the cases authorized by law.

11. To grant pardons, commutation and reduction of sentences in accordance with the law, likewise to reinstate delinquents in their rights.

12. To grant amnesties and general or special pardons for political offenses.

13. To emancipate minors in accordance with the laws.

14. To supply the consent to contract marriage to those who need such consent by law. He shall not supply the consent of the father nor that of the mother.

15. To convene Congress in ordinary session, and, in accord with the Council of Ministers, to call for extraordinary sessions whenever the serious interests of the State demand it. The decree in the latter case shall explain the reasons of the convocation of the chambers. After the latter have convened, he may submit new matters to their consideration.

16. To issue the instructions and regulations which may be necessary and convenient for the prompt and proper execution of the laws, without however contradicting or altering the spirit thereof. These regulations and instructions must be discussed in the Council of Ministers.

17. To issue regulations for the internal government of the offices and departments of the government.

18. To look to the prompt and complete administration of justice lending the courts, in accordance with the law, all the necessary support and assistance to have their orders obeyed and executed.

19. To call upon the citizens and the electoral college to hold the elections which may be necessary at the time fixed by the Constitution and by law.

ART. 100. The President must present to Congress at the opening of the ordinary sessions a written message rendering an account of the political situation of the Republic and of the general situation of the several branches of the administration. He shall recommend, furthermore, the adoption of measures which he may consider important for the good conduct of the affairs of the nation and for its progress and welfare.

These documents, being essentially of a political nature, must be approved by the Council of Ministers.

ART. 101. The President of the Republic during his term of office, and the titular or temporary Vice-President, while in the discharge of that office, shall not be prosecuted or tried for common offenses, except after the Chamber of Deputies has declared that there is ground for prosecution upon charges filed against them.

ART. 102. The President, or the person who replaces him, and the ministers of State are responsible for the offenses which they may commit in their conduct:

1. When they favor the interests of a foreign nation against the independence, liberty and integrity of Costa Rica.

2. When they interfere directly or indirectly with the elections ordered by this Constitution, or restrict the freedom to which all electors are entitled.

3. When they prevent the chambers from assembling or holding their meetings at the time appointed by the Constitution, or restrict the liberty and independence which they should enjoy in all their acts and deliberations.

4. When they refuse to publish or execute the laws in those cases in which according to this Constitution they may not refuse.

5. When they impede or hinder the courts from taking cognizance of cases falling under their jurisdiction, or when they restrict the freedom which said courts should enjoy, or disobey their orders.

6. When in any other manner they attempt to violate the Constitution or the laws, or the lawful enjoyment and exercise of political or individual rights or the constitutional custody and use of the public wealth.

For these acts they shall be tried by the Senate after the Chamber of Deputies, in accordance with the provisions of Article 77, has declared that there is ground to institute proceedings.

The ministers are liable for the acts of the administration in their respective branches jointly with the President. The liability for the acts agreed upon in the Council of Ministers shall extend to all ministers jointly with the President. The ministers shall not be released from liability by a verbal or written order of the President, nor shall they save their vote at the Council sessions.

The liability of the President or of the person acting as substitute shall only be demanded when he is in power, and during the year following the date of his separation from office. The liability of the ministers shall last while they are in office and for six months after their separation therefrom.

ART. 103. All decrees, acts, regulations or orders of the President must be signed by the respective minister, and shall not be valid or

obeyed without this requisite. Only those decrees whereby ministers are appointed or removed shall be signed by the President alone.

The ministers shall not issue any decree, resolution or order by themselves, and shall be held guilty of fraudulent alteration (*su-plantación*) if they communicate any act of the President without being signed first by the latter in the respective book.

ART. 104. The ministers of State may attend the sessions of either one of the chambers and take part in the discussion. But they must withdraw from the Hall of the Chamber before voting is proceeded with.

ART. 105. No one shall be minister of State who is not:

1. A citizens in the exercise of his rights.
2. A native or a naturalized citizen who has resided ten years in the country after having obtained his naturalization papers.
3. A layman.
4. Over 25 years of age and of well-known morality and qualifications.

No one shall be minister who is a contractor for public works or services; and whoever files any claim for his own interest shall cease to be a minister if at the time of filing such claim he holds such office.

ART. 106. Within the first fifteen days after the opening of the ordinary sessions, the ministers must present to Congress in writing a detailed report of all the work done during the year and of the condition of the administration.

The Minister of Finance shall furthermore, within the same term, present the project for the budget for the ensuing calendar year, and the detailed account of the expenses incurred during the preceding calendar year. The items of expenses shall be kept one by one with all their details, but should there be amongst the latter any one of a secret character, the publication of which should be deemed inadvisable, the Minister shall not include it, but he must give explanations, and show the corresponding voucher to the committee appointed by Congress to examine the accounts of the Treasury.

Failure to present these reports and the project within the time specified, shall render the defaulting minister liable therefor.

ART. 107. All deliberations and resolutions of the President and the Council of Ministers shall be entered in the corresponding book of minutes which shall be signed by all present.

When the extreme gravity of any matter so demands it, the President shall add to the Council such persons as he may consider proper to call. The resolutions and the votes shall be set down in the minutes.

CHAPTER VII.—THE JUDICIAL POWER.

ART. 108. The judicial power shall be vested in the Supreme Court of Justice divided into branch courts: one of Cassation with five members, and the others of Appeals with three members each.

The number of Courts of Appeals shall be determined by law in accordance with the needs of the administration of justice.

The justices shall be elected by the Senate from among the lists of three candidates for each place, which must be presented to it separately by the Chamber of Deputies and the executive power.

The candidates of either list may be the same in whole or in part.

The Senate shall designate which are the justices who are to constitute each branch court, and which of their members is to be their president. The president of the Court of Cassation shall be the president of the Supreme Court.

The powers of the Supreme Court in bench and those of each branch court shall be determined by law.

ART. 109. The judicial power shall be exercised also by the tribunals and courts established by law, all of which, whatever be their denomination, shall depend upon the Supreme Court.

The law shall mark the jurisdiction, number and duration of the courts and tribunals, their attributions, duties, faculties and the manner in which they shall incur liability.

The Supreme Court has the power to appoint all officials who administer justice under it as well as to appoint or remove the subordinate personnel of the branch courts and lower courts.

Congress is authorized to organize the jurisdiction on governmental litigious matters (*jurisdicción contencioso-administrativa*).

ART. 110. The office of judge or justice is incompatible with that of alderman or municipal employee, and with that of employee and subordinate of the other powers.

But the office of professor of a professional school supported or subsidized by the State is not incompatible, if the appointment is made by the respective board of directors.

No judge or judicial functionary shall engage in the profession of law, or be a solicitor, except in cases personally affecting himself, his spouse, his ascendants or descendants, or brothers, by blood or affinity.

Nor shall any judicial functionary:

1. Address any communication to the executive power or to Congress or to public officials or official corporations, congratulating or criticising them for their acts.

2. Take any part in the political elections outside of casting their personal vote.

3. Take any part in meetings, demonstrations or any other acts of a political character.

The provisions of Article 65 in regard to deputies and senators are also applicable to justices.

ART. 111. For the office of justice the following requisites are necessary :

1. To be a native of the Republic and a citizen in the exercise of his rights.

2. To belong to the laity.

3. To be over 35 years of age.

4. To have a lawyers' degree issued or recognized in the country by the authority or corporation legally empowered therefor, and to have practiced his profession for at least ten years, either as an official of the judicial branch or as a professor of law, or in private practice.

The following shall not be appointed justices :

1. Persons who are deaf or dumb, or those who are physically or mentally defective.

2. Those who have been sentenced for crimes committed against property, public faith or good morals.

Persons who are related to each other by blood or affinity, being ascendants and descendants or brothers, shall not act as justices at the same time.

Justices must give a bond or mortgage security up to the sum of 5,000 colons before entering upon the discharge of their duties.

ART. 112. Justices shall have the right to remain in office while they discharge their duties well. They shall not be suspended without a previous declaration that there is ground to institute proceedings against them, nor shall they be discharged except by virtue of a judgment rendered against them.

A justice who, while in the discharge of his duties as such, shall be rendered incapable of continuing in office by reason of age or illness, shall be separated from the Supreme Court upon justification of his case, and by the vote of three fourths of the total number of its members. A justice shall have then the right to receive a life pension amounting to one half of the salary which he is drawing at the time of his retirement.

ART. 113. The salary of the justices shall be fixed by law every ten years, and those of the other public officials who render their service in the courts and other inferior tribunals shall be fixed every five years.

The salaries of these officials shall not be reduced during the period for which they were fixed.

ART. 114. Public officials who are serving in the inferior courts or tribunals shall not be suspended during their term of office except

upon previous declaration that there is ground for instituting proceedings against them; nor shall they be dismissed except by virtue of a final judgement.

The Supreme Court, for grave reasons, however, shall cancel, by a vote of two thirds of the total number of its members, the election of any of said officials.

ART. 115. In order to fill accidental vacancies of justices, the Senate shall elect every two years twenty assistant justices who must have the same qualifications required for the office of justice, and who have property of their own to the value of 5,000 colons, or an annual income of 3,000 colons, and who are not subalterns, officials of the court or employees of the other branches of the government, or aldermen or municipal employees.

No lawyer shall sit as assistant justice in any case of which he is in charge or which he may be defending before the courts.

Whenever any justice is to be substituted, either for a specified case or for any length of time, the Supreme Court in bench shall draw such substitute by lot from among the list of assistant justices.

Whenever a vacancy shall occur amongst the justices by reason of death or incapacity, the Supreme Court shall report this fact to the executive power and to the Chamber of Deputies, in order that the Senate in its ordinary or extraordinary session may fill such vacancy. In the meantime the Supreme Court shall elect one of the assistant justices to temporarily fill the vacancy.

CHAPTER VIII.—THE MUNICIPAL RÉGIME.

ART. 116. For the purposes of the general administration of national affairs, the territory of the Republic shall continue to be divided into the seven provinces of San José, Alajuela, Cartago, Heredia, Guanacaste, Puntarenas and Limón. The provinces shall be divided into cantonments and the cantonments into districts.

Hereafter, no cantonment shall be created that has not at least 5,000 inhabitants; neither shall a cantonment be created, if upon dismembering it from the other or others the dismembered cantonment should not be left with a population of at least 6,000 inhabitants and sufficient territory for its development.

The law creating a new cantonment shall designate its boundaries in indubitable manner.

The executive power shall issue, as soon as possible, the opportune orders so that the boundaries of existing cantonments and provinces shall be clearly determined. Should the municipalities concerned agree in the total or partial demarcation of their boundaries, the executive power shall approve the agreement and the line agreed upon

by the parties shall be considered as the boundary line. Otherwise, the disputed line shall be submitted to the decision of the Chamber of Deputies, so as to settle the question by a law fixing the boundaries and adopting the natural divisions as far as may be practicable.

ART. 117. The management of interests which are purely local in character shall be entrusted by each cantonment to a municipality and an intendant, who shall be elected by the citizens domiciled in such cantonment at least three months before election.

Each municipality shall be composed of three aldermen in those cantonments whose population does not exceed 5,000 inhabitants; five in those whose population exceeds 5,000 and is less than 10,000; and in those cantonments of over 10,000 inhabitants there shall be an additional alderman for every 10,000 inhabitants or fraction thereof exceeding 5,000.

In order to fill the vacancies of aldermen, there shall be elected at the same time as many substitutes as there are sitting aldermen; and to replace the vacancy of the intendant, a vice-intendant shall be elected.

Each district shall furthermore elect a sitting and a substitute syndic, whose main duty shall be to represent before the municipality the special interests of his district, and to see that the funds of the latter are used for the needs thereof, after deducting the percentage of general expenses for the cantonment which may correspond to the district in the proportion which its population has to the total population of the cantonment.

ART. 118. The sitting and substitute aldermen shall hold their office for six years, and one half of them shall be renewed every three years. If the number of aldermen is odd, the half of the even number resulting after adding a unit to the total shall be renewed first. The alderman or aldermen who are to leave office after the first three years shall be decided by lot.

The syndics shall hold office for three years, and shall be elected by the citizens of the district at the same time as the aldermen.

The office of alderman and syndic is obligatory and gratuitous. The law shall designate the qualifications which said officers must have, and the grounds which may be alleged as excuses for declining the election.

The intendant and vice-intendant shall hold office for three years and may be reelected. The office of intendant is salaried. The amount of the salary shall be fixed by the municipality for the following period, and shall not be increased or diminished for the running term of three years.

The term of office of municipal officials shall begin on 1 May, or which date they shall enter upon the duties thereof.

ART. 119. The municipality shall not take any action without the presence of two thirds of its members. The decisions shall be taken by a majority of the votes present. The intendant shall preside over the sessions, but shall not vote.

The provisions regarding the substitute deputies, as contained in Article 63, is applicable to aldermen.

ART. 120. The municipality has the power to freely appoint and discharge the heads of the several departments. Subalternate officials shall be freely appointed and discharged by the intendant but the municipality has the right to disapprove such appointments or dismissals.

The intendant is the executor of the laws and resolutions of the municipality on municipal matters.

The municipality shall deliberate and decide upon all matters of local interest, and it is therefore its duty to take care of the sanitation, to which they must give preferred attention in accord with the Supreme Board of Health, and to take care also of the public comfort, improvement and recreation; of the roads, streets and squares of the cantonment; of the municipal public works; of the lighting and water systems, neatness, markets, sewers, watermains and in general of everything that tends to the progress and welfare of the neighborhood considered as an administrative unit different from that of the State. All this shall be done in accordance with the general laws and the provisions of the present Constitution.

It shall dispose of all the revenues and income belonging to it according to the law.

It may decree new taxes whenever there is a law authorizing it. Its decree shall be obligatory to the neighborhood after it has been approved by the executive power, who shall not refuse its approval if the tax is according to law, and does not exceed the maximum which the latter may have fixed and must fix for each item.

It shall attend to the needs of the cantonment with its revenues and income. No expenditure shall be authorized by the municipality or by law which does not respond to a real necessity; and the use of the public funds of the cantonments for feasts, celebrations, receptions or other purposes foreign to those of the municipal institution is forbidden.

A general law shall provide what may be proper in regard to the manner of forming and liquidating the municipal budget. Every three months the intendant shall publish and cause to be printed and circulated a statement giving in detail the revenues and the expenditures; and he shall publish every year in the official journal a report of whatever has been done during the preceding year.

ART. 121. The intendant shall propose to the municipality the measures which he may deem proper.

He may veto any resolution of the municipality within the eight working days following the passage thereof, whenever in his opinion said resolution is contrary to law, or is beyond the powers of the corporation. Private individuals impaired in their rights may in similar cases appeal from municipal resolutions. The municipality shall reconsider its resolutions immediately, and if insisted on, the case shall be submitted for final decision to the executive power, who shall consider and decide the matter in question in the Council of the Cabinet.

ART. 122. The executive power shall take care that the municipalities and intendants comply with their legal duties. Should he notice any illegality in the discharge of the duties belonging to such corporations or officials, he may suspend their resolutions, if so decided in the Council of the Cabinet, and he shall report this fact to the Senate at its next session, so that the latter may take the proper action or may determine the corresponding liability.

ART. 123. There shall be a governor for each province, who shall be the agent for and appointed by the executive power, with the qualifications and attributions determined by law.

This official shall have no authority over the municipality and the intendant in the exercise of the latter's office. He must, on the contrary, and as far as not against law, lend them his assistance and collaboration.

CHAPTER IX.—THE REFORM OF THIS CONSTITUTION.

ART. 142. The present Constitution may be partially reformed through a legislative act which must be subject to the following provisions:

1. No amendment shall be proposed, considered, or decided upon in extraordinary sessions.

2. No proposed amendment which has been rejected by either one of the chambers or by Congress shall be again presented until after two years.

3. Either chamber may propose an amendment by three of its members, no more, no less. The proponents must present a reasoned statement together with the draft of the articles, which shall be published in the official journal before they are read in the chamber.

4. No proposed amendment shall cover matters which are not perfectly connected with one another. Each matter shall be the object of a proposed amendment which may refer to several articles of the Constitution if they supplement one another.

5. Each chamber shall, before entering upon the discussion of any amendment, elect a commission of three persons, from among its

members, to report within eight days whether or not the amendment is advisable. This report shall be published in the official journal and shall not be taken up for debate until three days after its publication.

6. Saving the provision contained in Section 10 of this article, with reference to Congress, no amendment shall be considered validly made until passed by two thirds of the votes present.

7. After the amendments have been presented, and their publication and report on the same have been proceeded with as aforesaid, they shall be taken up for debate on three different days. Should the chamber approve the amendment, with or without amendments, it shall be referred to the other chamber for review. Should this not be done, the proposed amendment shall be considered as rejected.

8. The reviewing chamber in the same session, or, in case of lack of time, in the session immediately following, shall take up the proceedings on the amendment. If the chamber, after holding three debates should agree to the amendment as it was sent to it, the record shall be sent to the executive power. Should the chamber reject the amendment as a whole, said amendment shall be considered defeated. Should the amendment be accepted in general, but subject, in its opinion, to some necessary changes, said changes shall be proposed to the chamber where the amendment originated. In such case, should the latter accept the changes after a debate, the respective bill shall be considered modified, and shall be forwarded by the reviewing chamber to the executive power, but should said changes be disapproved, the amendment shall be considered rejected.

9. If in the foregoing cases the proposed amendment should be referred to the executive power, the President shall, in the Council of Ministers, decide what he may deem convenient, and he shall return the record within the first eight days after the sessions for the year immediately following have opened. The resolution of the executive and the reasons on which his decision is based shall be noted in the record of the proposed amendment, and the respective act or statement shall be signed by the President and the ministers. This document shall likewise be published in the official journal.

10. Three days after the report of the executive has been published, the Congress shall, in joint session, begin to consider the matter, which must undergo three debates on such dates as it may designate, without need of referring the report to a new committee. In the event that the executive has accepted it without change, or should propose a change accepted by Congress, two thirds of the votes of deputies and senators present shall be sufficient to consider the amendment ratified. But three fourths of the total number of deputies and senators shall be necessary to consider the amendment passed, if the executive should object to it or should suggest changes

which Congress does not accept. If in either case the necessary special majority should not be obtained, the proposed amendment shall be considered as rejected.

11. If the amendment agreed upon in accordance with the foregoing principles should refer to any of the guarantees specified in Chapter II of this Constitution, said amendment shall not be valid if not ratified by a majority of the votes of a Constituent Assembly which shall be called by Congress for that purpose.

ART. 125. Whenever, according to Article 1, or to the last article of a Constituent Assembly has to be called, Congress shall, within eight days following the approval of the treaties or the amendments, pass a law calling for an election of deputies, possessing the qualification which this Constitution demands for the office of senator. The election shall be made by provinces at the rate of one sitting deputy for every 15,000 inhabitants and fraction not over (*sic*) 7,500, and of substitute deputy for every three and fraction of three of the sitting deputies.

The Assembly shall meet within three months, at the latest, and the rules established by Article 69 in regard to the number necessary to constitute a quorum shall also be applicable to the Assembly. The provisional board of directors shall be composed of the three eldest deputies who shall, in order of seniority, fill the office of president, first and second secretary.

CHAPTER X.—THE OBSERVANCE OF THIS CONSTITUTION.

ART. 126. The present Constitution, signed by all the deputies in the Assembly, shall be referred to the executive power for its immediate publication and observance, without the need of the oath formerly used.

The former Constitution of 1871, reenacted in 1882 and in the same year by a decree of the Constituent Assembly, as well as all the laws which thereafter amended it, are hereby abrogated.

ART. 127. The existing laws shall continue in force and shall be obeyed, in so far as they are not contrary to this Constitution.

ART. 128. In order that the interpretation of any of the provisions of this Constitution may be considered authentic, it is necessary that the same procedure and formalities prescribed for their revision be observed.

ART. 129. Congress, at its ordinary sessions, shall ascertain whether or not this Constitution has been violated, and whether or not the liability of the infractors has been enforced; and, in its proper case, it shall take the necessary steps for the punishment of the guilty.

TRANSITORY PROVISIONS.

ARTICLE 1. The first presidential term shall end on 8 May 1923, and until then the President elected by the people on 1 April of the present year shall exercise the executive power in accordance with the Constitution.

The budget to be voted in 1923 shall show the salary the President shall receive for the next six years and for each succeeding term of six years.

ART. 2. The office of Vice-President of the Republic shall become effective for the term commencing on 8 May 1923.

Meanwhile, in regard to succession to the Presidency the system of designates shall be used which was in force under the previous Constitution.

ART. 3. The Constituent Assembly ratifies the appointments of the justices of the Supreme Court of Justice and the assistant justices, to which decrees No. 5 of 12 April and No. 13 of 4 June of the present year respectively refer.

ART. 4. In order to arrange the municipal régime during the transition period it is hereby ordered:

1. That one half of the members of the present municipalities shall continue in office until 30 April 1919. The President of the Republic in the Council of Ministers shall draw by lot the one half which must cease at the present time, and shall replace it with individuals appointed by him possessing the qualifications required by law. Should the number be an odd one, the one half resulting from the total plus one, shall cease at the present time.

2. That the office of intendant shall not be filled until 1 May 1919, and in the meantime the government and political chiefs shall continue to exercise the powers which they have at present. During that interval the executive must submit the proposed municipal ordinances, and Congress must publish them. The municipalities shall continue to be governed as at present until 1 May 1919, on which date the provisions in regard to the new municipalities shall become effective.

3. That the syndics at present in office shall continue in their places until 30 April 1919. Should any vacancy occur and should there be no substitute to fill it, the executive shall replace it, appointing a person for that office possessing the legal requisites, after hearing the principal inhabitants and taxpayers of the district.

4. That the first popular election of sitting and substitute aldermen, as well as of syndics, intendants and vice-intendants shall take place on the first Sunday in March, 1919.

ART. 5. The Assembly shall convert itself into an ordinary Congress, and shall remain in ordinary session until 31 August of the

present year, and for the purpose of constituting the legislative chambers it shall observe the rules for distribution of members established by the present Constitution.

ART. 6. The senators and deputies who compose the present Assembly and who shall form the next Congress and the members of the municipality now in office, shall continue in their places until 30 April 1919.

The executive power shall, at the proper time, call for elections in accordance with Article 52 of the Constitution; and one half of the members of the chambers which may then be elected, as well as those of the municipalities, shall be renewed every three years in the manner established in this Constitution.

ART. 7. In order to fill the absolute or temporary vacancies of senators, the chambers shall elect a member of the Chamber of Deputies, giving preference to those of the same province, of the senator who left the vacancy. Provided that if the vacancy is only temporary, the deputy elected to fill it shall be reinstated in his Chamber when the absence of the sitting senator should cease.

ART. 8. If the number of substitute deputies of one province should be exhausted, the vacancies which may occur shall be filled by those of another province which the board of directors may elect.

ART. 9. During the present constitutional period the representation for the provinces shall be as follows: San José, 9 deputies and 4 senators; Alajuela, 7 deputies and 3 senators; Cartago, 5 deputies and 2 senators; Heredia, 3 deputies and 2 senators; Guanacaste, 3 deputies and 1 senator; Puntarenas, 1 deputy and 1 senator; Limón, 1 deputy and 1 senator. The renewals which may occur during the six years immediately following shall be made in accordance with this proportion.

ART. 10. The judges and mayors who are at present discharging judicial duties shall not be removed from office until the expiration of the term in force, in accordance with the original law, without prejudice to the provisions contained at the end of Article 114.¹

¹ Here follow the signatures of the 42 deputies and the decree of promulgation signed by the President and the 5 ministers.

CUBA.

By the Treaty of Paris of 10 December 1898,¹ which ended the Spanish-American War, Spain abandoned her rights of sovereignty over her possessions of Cuba, Porto Rico and the Philippines. For a few years Cuba was under the control of the United States military forces. An Act of Congress of the United States of 2 March 1901² authorized the President of the United States "to 'leave the government and control of the island of Cuba to its people,' so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States and Cuba" on the basis of certain principles. These principles were to be inserted in a permanent treaty. A convention embodying them was signed on 22 May 1903³ between the United States and Cuba. Meanwhile, an assembly met at Habana and adopted a Constitution on 21 February 1901,⁴ and an amendment governing Cuba's relations with the United States was adopted by the Constituent Assembly on 12 June following.⁵ The President and Vice-President of the new Republic were elected on 21 February 1902, and the government of the United States transmitted the actual control of the island to the established authorities on 20 May.⁶

¹ Signed in English and Spanish. English text in W. M. MALLOY, *Treaties, Conventions, International Acts, Protocols, and Agreements between the United States of America and other Powers, 1776-1909* (Washington, 1910), vol. II, pp. 1690-1695, and *British and Foreign State Papers*, 90: pp. 382-387.

² Text in *United States Statutes at Large*, 31: p. 897.

³ Signed in English and Spanish. English text in MALLOY, *op cit.*, vol. I, pp. 362-364, and *British and Foreign State Papers*, 96: pp. 548-551. English and Spanish texts in parallel columns in J. I. RODRIGUEZ, *American Constitutions*, vol. II (Washington, 1907), pp. 149-154.

⁴ The Spanish text, as officially published and certified by Gen. Leonard Wood, military governor of Cuba, in the *Habana Gaceta* of 14 April 1902, and English translation in parallel columns appear in RODRIGUEZ, *op. cit.*, pp. 112-148 (this includes the Appendix).

⁵ Spanish text also in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 1113-1130. French translation in *Annuaire de législation étrangère*, 34 (1904): pp. 463-486. English translation in *British and Foreign State Papers*, 94: pp. 554-578 (this includes the Appendix).

⁶ See preceding note.

⁷ This introductory paragraph is based upon F. R. DARESTE, ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 427-428, and RODRIGUEZ, *op. cit.*, pp. 109-111.

CONSTITUTION OF 21 FEBRUARY 1901.¹

[PREAMBLE.]

We, the delegates of the people of Cuba, in national convention assembled for the purpose of framing and adopting the Fundamental Law under which Cuba is to be organized as an independent and sovereign State, and be given a government capable of fulfilling its international obligations, preserving order, securing liberty and justice, and promoting the general welfare, do hereby ordain, adopt and establish, invoking the favor of God, the following Constitution.

TITLE I.—THE NATION, ITS FORM OF GOVERNMENT AND THE NATIONAL TERRITORY.

ARTICLE 1. The people of Cuba constitute themselves into a sovereign, independent State and adopt a republican form of government.

ART. 2. The island of Cuba and the islands and islets adjacent thereto, which up to the date of the ratification of the Treaty of Paris of 10 December 1898² were under the sovereignty of Spain, form the territory of the Republic.

ART. 3. The territory of the Republic shall be divided into the six provinces which now exist, each of which shall retain its present boundaries. The determination of their names corresponds to the respective provincial councils.

The provinces may by resolution of their respective provincial councils and the approval of Congress annex themselves to other provinces, or subdivide their territory and form new provinces.

TITLE II.—CUBANS.

ART. 4. Cuban nationality is acquired by birth or by naturalization.

ART. 5. Cubans by birth are:

1. All persons born of Cuban parents whether within or without the territory of the Republic.

2. All persons born of foreign parents within the territory of the Republic, provided that on becoming of age they apply for inscription, as Cubans, in the proper register.

3. All persons born in foreign countries of parents natives of Cuba who have forfeited their Cuban nationality, provided that on becoming of age they apply for their inscription as Cubans in the register aforesaid.

¹ See above, p. 151, note 4. The translation given here is based on the one in RODRIGUEZ.

² See above, p. 151, note 1.

ART. 6. Cubans by naturalization are:

1. Foreigners who having served in the liberating army claim Cuban nationality within six months following the promulgation of this Constitution.

2. Foreigners domiciled in Cuba prior to 1 January 1899 who have retained their domicile, provided that they claim Cuban nationality within six months following the promulgation of this Constitution, or if they are minors within a like period following the date on which they reach full age.

3. Foreigners who after five years' residence in the territory of the Republic, and not less than two years after the declaration of their intention to acquire Cuban nationality, have obtained naturalization papers according to law.

4. Spaniards residing in the territory of Cuba on 11 April 1899 who failed to register themselves as such in the corresponding register within one year thereafter.

5. Africans who were slaves in Cuba, and those "emancipated" referred to in Article 13 of the Treaty of 28 June 1835 between Spain and England.

ART. 7. Cuban nationality is lost:

1. By the acquisition of foreign citizenship.

2. By the acceptance of employment or honors from another government without permission of the Senate.

3. By entering the military service of a foreign nation without the said permission.

4. In cases of naturalized Cubans, by their residence for five years continuously in the country of origin, except when serving an office or fulfilling a commission of the government of the Republic.

ART. 8. Cuban nationality may be reacquired in the manner to be provided by law.

ART. 9. Every Cuban shall be bound:

1. To bear arms in defense of his country in such cases and in such manner as may be determined by the laws.

2. To contribute to the payment of public expenses in such manner and proportion as the laws may prescribe.

TITLE III.—FOREIGNERS.

ART. 10. Foreigners residing within the territory of the Republic shall be on the same footing as Cubans:

1. In respect to protection of their persons and property.

2. In respect to the enjoyment of the rights guaranteed by Section I of the following title, excepting those exclusively reserved to citizens.

3. In respect to the enjoyment of civil rights under the conditions and limitations prescribed in the law of aliens.

4. In respect to the obligation of obeying the laws, decrees, regulations, and all other statutes that may be in force in the Republic and complying with their provisions.

5. In respect to submission to the jurisdiction and decisions of the courts of justice and all other authorities of the Republic.

6. In respect to the obligation of contributing to the public expenses of the State, province and municipality.

TITLE IV.—RIGHTS GUARANTEED BY THIS CONSTITUTION.

SECTION I.—INDIVIDUAL RIGHTS.

ART. 11. All Cubans are equal before the law. The Republic does not recognize any personal prerogatives.

ART. 12. No law shall have retroactive effect, except when peculiar and favorable to the defendant.

ART. 13. Obligations of a civil nature arising out of contracts or other acts or omissions shall not be nullified or impaired by either the legislative or the executive power.

ART. 14. The penalty of death shall in no case be imposed for offenses of political character, said offenses to be defined by law.

ART. 15. No person shall be detained except in the cases and in the manner prescribed by law.

ART. 16. Every arrested person shall be set at liberty or placed at the disposal of the competent judge or court within twenty-four hours immediately following the arrest.

ART. 17. All arrests shall be terminated, or turned into formal imprisonments, within seventy-two hours, immediately after the delivery of the arrested person to the judge or court of competent jurisdiction. Within the same time notice shall be served upon the interested party of the action taken.

ART. 18. No person shall be imprisoned except by order of a competent judge or court.

The order directing the imprisonment shall be affirmed or reversed, upon the proper hearing of the prisoner, within seventy-two hours next following the committal.

ART. 19. No person shall be prosecuted or sentenced except by competent judge or court, by virtue of laws in force prior to the commission of the offense, and in the manner and form prescribed by said laws.

ART. 20. Every person arrested or imprisoned without the formalities of law, or outside of the cases foreseen in this Constitution or the laws, shall be set at liberty at his own request or that of a citizen.

*law shall determine the form of summary proceedings to be held in this case.*¹

21. No one shall be bound to testify against himself, neither be compelled to testify against his consort, nor against his within the fourth degree of consanguinity or second of

22. The secrecy of correspondence and other private documents shall be inviolable, and neither shall be seized or examined except by a competent authority and with the formalities prescribed by law. In all cases matters therein contained not relating to matters under investigation shall be kept secret.

23. Domicile is inviolable; and therefore no one shall enter at the house of another except by permission of its occupant, unless for the purpose of giving aid and assistance to victims of an accident; or in the daytime, except in the cases and in the manner prescribed by law.

24. No person shall be compelled to change his domicile or residence except by virtue of an order issued by a competent authority and in the cases prescribed by law.

25. Every one may freely express his ideas either orally or in writing through the press, or in any other manner, without subjecting himself to previous censorship; but the responsibilities specified by law, which are made upon the honor of individuals, the social order, and the public peace, shall be properly enforced.

26. The profession of all religions, as well as the practice of religious worship, is free, without any other restriction than that imposed by the respect for Christian morality and public order. No church shall be separated from the State, which in no case shall favor any religion.

27. All persons shall have the right to address petitions to the authorities, to have them duly acted upon, and to be informed of the action taken thereon.

28. All the inhabitants of the Republic have the right to assemble peacefully, without arms, and to associate with others for all purposes of life.

29. All persons shall have the right to enter or leave the territory of the Republic, to travel within its limits, and to change their residence, without necessity of safe conducts, passports, or other sim-

¹ Words printed in italics are not found in the text of the Constitution as given in *Boletín de Sesiones de la Convención Constituyente de la Isla de Cuba*, pp. 461-472, 1. SEDANO Y AGRAMONTE, *El Libro del ciudadano cubano* (Habana, 1901). They appear, however, in the text of the Constitution as printed in the *Legislatura de la Isla de Cuba*, 1902, vol. 1, pp. 415 *et seq.*, and in DON GONZALEZ, (Cuban Minister at Washington), *Cuba* (published by the International Bureau of the American Republics, November, 1905).

ilar documents, except when otherwise provided by the laws governing immigration, or by the authorities, in cases of criminal prosecution

ART. 30. No Cuban shall be banished from the territory of the Republic or prohibited from entering it.

ART. 31. Primary instruction shall be compulsory and gratuitous. The teaching of arts and trades shall also be gratuitous. Both shall be supported by the State, as long as the municipalities and provinces, respectively, may lack sufficient funds to defray their expenses.

Secondary and superior education shall be controlled by the State. All persons however, may, without restriction, learn or teach any science, art, or profession, and found and maintain establishments of education and instruction, but it pertains to the State to determine what professions shall require special titles, what conditions shall be required for their practice and for the securing of diplomas, as well as for the issuing thereof as established by law.

ART. 32. No one shall be deprived of his property, except by competent authority, upon proof that the condemnation is required by public utility, and previous indemnification. If the indemnification is not previously paid, the courts shall protect the owners, and, if needed, restore to them the property.

ART. 33. In no case shall the penalty of confiscation of property be imposed.

ART. 34. No person is bound to pay any tax or impost not legally established and the collection of which is not carried out in the manner prescribed by the laws.

ART. 35. Every author or inventor shall enjoy the exclusive ownership of his work or invention for the time and in the manner determined by law.

ART. 36. The enumeration of the rights expressly guaranteed by this Constitution does not exclude other rights based upon the principle of the sovereignty of the people and the republican form of government.

ART. 37. The laws regulating the exercise of the rights which the Constitution guarantees shall be null and void if said rights are abridged, restricted, or adulterated by them.

SECTION II.—RIGHT OF SUFFRAGE.

ART. 38. All male Cubans over 21 years of age have the right of suffrage, except the following:

1. Those who are inmates of asylums.
2. Those judicially declared to be mentally incapacitated.
3. Those judicially deprived of civil rights on account of crime.
4. Those serving in the land or naval forces of the Republic when in active service.

rt. 39. The laws shall establish rules and methods of procedure guarantee the intervention of the minorities in the preparation of census of electors, and in all other electoral matters, and its representation in the Chamber of Representatives and in the provincial municipal councils.

SECTION III.—SUSPENSION OF CONSTITUTIONAL GUARANTEES.

rt. 40. The guarantees established in Articles 15, 16, 17, 19, 22, 4 and 27, Section I of this title, shall not be suspended either in whole Republic, or in any part thereof, except temporarily and in the safety of the State may require it, in cases of invasion of the territory or of serious disturbances that may threaten public peace.

rt. 41. The territory in which the guarantees mentioned in the preceding article are suspended shall be ruled during the period of suspension according to the law of public order which may have previously enacted. But neither the said law, nor any other, shall order the suspension of other guarantees not mentioned in the article.

Nor shall any new offenses be created, or new penalties not established by the law which was in force at the time of the suspension, be ordered to be inflicted during the same.

The executive power is hereby forbidden to exile or expel from the country any citizen thereof, or compel him to reside at any other place farther than one hundred and twenty kilometers from his domicile.

Nor shall it detain any citizen for more than ten days, without delivering him to the judicial authorities, or repeat the detention during the time of the suspension of guarantees. The detained individuals shall be kept in special departments in the public establishments destined for the detention of prisoners charged with common offenses.

rt. 42. The suspension of the guarantees specified in Article 40 shall be ordered, only and exclusively by means of a law, but if Congress is not in session, it can be ordered by a decree of the President of the Republic. But the President shall have no power to suspend guarantees more than once during the period intervening between sessions of Congress, or for an indefinite period of time, or for a period longer than thirty days, without convoking Congress in the next decree of suspension. In all cases the President shall report the facts to Congress, in order that it may act as deemed proper.

TITLE V.—THE SOVEREIGNTY AND THE PUBLIC POWERS.

rt. 43. The sovereignty is vested in the people of Cuba, and from said people all the public powers emanate.

TITLE VI.—THE LEGISLATIVE POWER.

SECTION I.—THE LEGISLATIVE BODIES.

ART. 44. The legislative power is vested in two elective bodies be known as the Chamber of Representatives and the Senate; the two together constituting the Congress.¹

SECTION II.—THE SENATE, ITS MEMBERSHIP AND ITS POWERS.

ART. 45. The Senate shall consist of four senators for each province, to be elected in each one for a period of eight years by the provincial councilors, and by double that number of electors formed with the councilors an electoral college.

One half of the electors shall consist of citizens paying the greatest amount of taxes, and the other half shall possess the qualifications required by law. But it is necessary for all of them to be of full age and residents of the province.

The election of electors shall be made by the provincial voters hundred days before that of the senators.

The Senate shall be renewed by halves every four years.

ART. 46. To be a senator it is required:

1. To be a Cuban by birth.
2. To be over 35 years of age.
3. To be in the full enjoyment of civil and political rights.

ART. 47. The Senate shall have the following exclusive powers:

1. To try, sitting as a tribunal of justice, the impeachment of the President of the Republic, upon charges made against him by the Chamber of Representatives, for crimes against the external security of the State, against the free exercise of the legislative or judicial powers, or for violation of the constitutional provisions.

2. To try, sitting as a tribunal of justice, the impeachment of secretaries of State, upon charges made against them by the Chamber of Representatives, for crimes against the external security of the State, the free exercise of the legislative or judicial powers, violation of the constitutional provision, or any other crime of political character determined by law.

3. To try, sitting as a tribunal of justice, the impeachment of governors of provinces, upon charges made against them by the provincial councils or by the President of the Republic for any of the crimes named in the foregoing number.

When the Senate sits as a tribunal of justice, it shall be presided over by the Chief Justice of the Supreme Court and shall not impose any other penalty than that of removal from office, or removal

¹ Law of 22 July 1902 determined the relations between the two houses. Electoral Law of 25 December 1903, revised 11 September 1908.

from office and disqualification from holding any public office; but the infliction of any other penalty upon the convicted official shall be left to the courts declared by law to be competent for the purpose.

4. To confirm the nominations made by the President of the Republic for the positions of Chief Justice and associate justices of the Supreme Court, diplomatic representatives and consular agents of the nation, and all other public officers whose nominations require the approval of the Senate in accordance with the law.

5. To authorize Cuban citizens to accept employment or honors from foreign governments or to serve in their armies.

6. To approve the treaties entered into by the President of the Republic with other nations.

SECTION III.—THE CHAMBER OF REPRESENTATIVES, ITS MEMBERSHIP AND ITS POWERS.

ART. 48. The Chamber of Representatives shall consist of one representative for each 25,000 inhabitants or fraction thereof over 12,500, elected for the period of four years by direct vote of the people and in the manner provided by law.

The Chamber of Representatives shall be renewed by halves every two years.

ART. 49. To be a representative it is required:

1. To be a Cuban citizen by birth or by naturalization, provided in the latter case that the candidate has resided eight years in the Republic, to be counted from the date of his naturalization.

2. To have attained the age of 25 years.

3. To be in full possession of all civil and political rights.

ART. 50. The power to impeach before the Senate the President of the Republic and the secretaries of State, in the cases prescribed in Nos. 1 and 2 of Article 47 corresponds to the Chamber of Representatives. But the concurrence of two thirds of the total number of representatives, in secret session, shall be required to exercise this right.

SECTION IV.—PROVISIONS COMMON TO BOTH HOUSES OF CONGRESS.

ART. 51. The positions of senator and representative are incompatible with the holding of any other paid position of government appointment, except a professorship in a government institution, obtained by competitive examination prior to the election.

ART. 52. Senators and representatives shall receive from the State a pecuniary remuneration, alike for both positions, the amount of which may be changed at any time; but the change shall not take effect until after the renewal of the legislative bodies.

ART. 53. Senators and representatives shall be inviolable for their votes and opinions in the discharge of their duties. Senators and representatives shall only be arrested or indicted upon permission of the body to which they belong, if Congress is then in session, except in case of *flagrante delicto*. In this case, and in the case of the arrest or indictment being made when Congress is not in session, the fact shall be reported, as soon as practicable to the respective house for proper action.

ART. 54. Both houses of Congress shall open and close their sessions on the same day; they shall meet in the same city, and neither shall move to any other place, or adjourn for more than three days except by common consent.

Nor shall they begin to do business without two thirds of the total number of their members being present, or continue their session without the attendance of an absolute majority.

ART. 55. Each house shall be the judge of the election of its respective members and shall also pass upon their resignations. No senator or representative shall be expelled from the house to which he belongs, except upon grounds previously determined, and the concurrence of at least two thirds of the total number of its members.

ART. 56. Each house shall frame its respective rules and regulations, and elect from among its members its president, vice-president and secretaries. But the president of the Senate shall not discharge his duties as such, except in case the Vice-President of the Republic is absent or acting as President.

SECTION V.—CONGRESS AND ITS POWERS.

ART. 57. Congress shall assemble, without necessity of previous call, twice in each year, each session to last not less than forty working days. The first session shall begin on the first Monday in April and the second on the first Monday in November.

It shall meet in extra session in such cases and in such manner as may be provided by its rules and regulations and when called to convene by the President of the Republic in accordance with the provisions of this Constitution. In both cases it shall only consider the express object or objects for which it assembles.

ART. 58. Congress shall meet in joint session to proclaim, after counting and verifying the electoral vote, the President and Vice-President of the Republic.

In this case the president of the Senate, and in his absence the president of the Chamber of Representatives, as vice-president of the Congress, shall preside over the joint meeting.

If upon counting the votes for President it is found that none of the candidates has an absolute majority of votes, or if the votes are equally divided, Congress, by the same majority, shall elect as Pres

dent one of the two candidates having obtained the greatest number of votes.

Should more than two candidates receive the highest number of votes—no one obtaining an absolute majority—two or more having secured the same number, Congress shall elect from said candidates.

If the vote of Congress is equally divided another vote shall be taken; and if the result of the second vote is the same, the president shall cast the deciding vote.

The method established in the preceding number shall be also employed in the election of Vice-President of the Republic.

The counting of the electoral vote shall take place prior to the expiration of the presidential term.

ART. 59. Congress shall have the following powers:

1. To enact the national codes and the laws of a general nature; to determine the rules that shall be observed in the general, provincial and municipal elections; to issue orders for the regulation and organization of all services pertaining to the administration of national, provincial and municipal government; and to pass all other laws and resolutions which it may deem proper relating to other matters of public interest.

2. To discuss and approve the budgets of the revenues and expenses of the government. The said revenues and expenses, except such as will be mentioned hereafter, shall be included in annual budgets which shall be available only during the year for which they shall have been approved.

The expenses of Congress, those of the administration of justice and those required to meet the interest and redemption of loans shall have, the same as the revenues with which they have to be paid, the character of permanent and shall be included in a fixed budget which shall remain in force until changed by special laws.

3. To contract loans, with the obligation, however, of providing permanent revenues for the payment of the interest and redemption thereof.

All measures relating to loans shall require the vote of two thirds of the total number of the members of each house.

4. To coin money, fixing the standard, weight, value and denomination thereof.

5. To regulate the system of weights and measures.

6. To make provisions for regulating and developing internal and foreign commerce.

7. To regulate the services of communications and¹ railroads, roads, canals and harbors, creating those required by public convenience.

¹ The *Diario de Sesiones* and *El Libro del Ciudadano cubano* has "of railway communications."

8. To levy such taxes and imposts of national character as may be necessary for the needs of the government.

9. To establish rules and proceedings for obtaining naturalization.

10. To grant amnesties.

11. To fix the strength of the land and naval forces and provide for their organization.

12. To declare war and approve treaties of peace negotiated by the President of the Republic.

13. To designate, by means of a special law, the official who shall act as President of the Republic in case of death, resignation, removal, or supervenient inability of the President and Vice-President.

ART. 60. Congress shall not attach to appropriation bills any provision tending to make changes or reforms in the legislation or the administration of the government; nor shall it diminish or abolish revenues of permanent character without creating at the same time new revenues to take their place, except in case that the decrease or abolition depend upon the decrease or abolition of the equivalent permanent expenses. Nor shall Congress appropriate for any service to be provided for in the annual budget a larger sum of money than that recommended in the estimates submitted to the government; but Congress may by means of special laws create new services and reform or give greater scope to those already existing.

SECTION VI.—INITIATIVE, PREPARATION, APPROVAL AND PROMULGATION OF LAWS.

ART. 61. The right to initiate legislation is vested without distinction in both houses of Congress.

ART. 62. Every bill passed by the two houses and every resolution of the same which has to be executed by the President of the Republic shall be submitted to him for approval. If they are approved, they shall be signed at once by the President. If they are not approved, they shall be returned by the President, with his objections, to the house in which they originated, which shall enter its objections upon its journal and engage again in the discussion of the subject.

If after this new discussion two thirds of the total number of the members of the house vote in favor of the bill or resolution as originally passed, the latter shall be referred with the objections of the President, to the other house, where it shall be also discussed, and if the measure is approved there by the same majority it shall become a law. In all these cases the vote shall be by yeas and nays.

CUBA.

If within ten working days immediately following the sending of the bill or resolution to the President, the latter fails to return it, it shall be considered approved and shall become law.

If within the last ten days of a session of Congress a bill is sent to the President of the Republic, and he wishes to take advantage of the whole time granted him in the foregoing paragraph for the purposes of approval or disapproval, he shall acquaint the Congress with his desire, so as to cause it to remain in session, if it so wishes until the end of the ten days. The failure by the President to do so shall cause the bill to be considered approved and become a law.

No bill totally rejected by one house shall be discussed again in the same session.

ART. 63. Every law shall be promulgated within ten days next following its approval by either the President or the Congress, as the case may be, under the provisions of the preceding article.

TITLE VII.—THE EXECUTIVE POWER.

SECTION I.—THE EXERCISE OF THE EXECUTIVE POWER.

ART. 64. The executive power¹ shall be vested in the President of the Republic.

SECTION II.—THE PRESIDENT OF THE REPUBLIC, HIS POWERS AND DUTIES.

ART. 65. To be President of the Republic it is required:

1. To be a Cuban by birth or naturalization, and in the latter case to have served in the Cuban armies in the wars of independence for at least ten years.
2. To be over 40 years of age.
3. To be in the full enjoyment of civil and political rights.

ART. 66. The President of the Republic shall be elected by presidential electors on the same day, in the manner provided by law.

The term of office shall be four years, and no one shall be President for three consecutive terms.

ART. 67. The President, before entering on the discharge of duties of his office, shall take oath or affirmation before the Supreme Court of Justice to faithfully discharge his duties and comply with the Constitution and the laws.

ART. 68. The President of the Republic shall have the following powers and duties:

1. To approve and promulgate the laws, and to obey and enforce others to obey their provisions. To enact, if Congress has no law, such rules and regulations as may be necessary for the

¹ Organic Law (on the executive power) of 26 January 1909.

execution of the laws; and to issue all orders or decrees which may be conducive to the same purpose or to any other purposes of government and the administration thereof in the Republic, provided that in no case the said orders or decrees are at variance with the provisions of the law.

2. To call Congress, or the Senate alone, to meet in extra session in the cases set forth in the Constitution, or when in his opinion the meeting may be necessary.

3. He shall adjourn Congress, when no agreement can be reached between the two houses on the question of adjournment.

4. To transmit to Congress at the beginning of each session, and whenever he may deem it advisable, a message relating to the acts of his administration, showing the general condition of the affairs of the Republic, and recommending the adoption of such laws and measures as he may deem necessary or advisable.

5. To submit to Congress through either one of the houses, before 15 November, a draft of the annual budget.

6. To furnish Congress all the information desired by it on every matter of business which does not require secrecy.

7. To conduct all diplomatic negotiations and conclude treaties with foreign nations, provided that these treaties be submitted for approval of the Senate, without which requisite they shall be neither valid nor binding upon the Republic.

8. To freely appoint and remove the secretaries of State, giving Congress information of his action.

9. To appoint, with the approval of the Senate, the Chief Justice and the associate justices of the Supreme Court, and the diplomatic and consular agents of the Republic. If the vacancy occurs at a time in which the Senate is not in session, he shall have power to make the appointment of said functionaries *ad interim*.

10. To appoint all other public officers recognized by law, whose appointment is not entrusted to some other authority.

11. To suspend the exercise of the rights enumerated in Article 40 of the Constitution in the cases and in the manner set forth in Articles 41 and 42.

12. To suspend the resolutions passed by the provincial and municipal councils in the cases and in the manner set forth in this Constitution.

13. To order the suspension of the governors of provinces in case they exceed their powers or violate the laws; but in these cases he shall report the fact to the Senate, in the manner and form determined by law, for such action as may be proper.

14. To prefer charges against the governors of provinces in the cases set forth in No. 3 of Article 47.

15. To grant pardons according to the provisions of law, except in the case of public functionaries convicted for wrongs done in the exercise of their functions.

16. To receive diplomatic representatives and admit consular agents of other nations.

17. To dispose of the land and sea forces of the Republic as commander-in-chief of the same. To provide for the defense of the national territory, reporting to Congress what he may have done on the subject. To provide for the preservation of peace and public order in the interior of the country. If there is danger of invasion, or of any rebellion breaking out and gravely threatening the public safety, Congress not being in session at the time, the President shall call it to convene without delay for such action as may be deemed proper.

ART. 69. The President shall not leave the territory of the Republic without the permission of Congress.

ART. 70. The President shall be responsible before the Supreme Court for the common offenses he may commit during his term of office, but he shall not be prosecuted without previous permission of the Senate.

ART. 71. The President shall receive from the State a salary which may be changed at any time, but the change shall not go into effect until the next following presidential term.

TITLE VIII.—THE VICE-PRESIDENT OF THE REPUBLIC.

ART. 72. There shall be a Vice-President of the Republic, who shall be elected in the same manner and for the same period of time as the President, and jointly with him. To be Vice-President the same qualifications set forth in this Constitution to be President shall be required.

ART. 73. The Vice-President of the Republic shall be the president of the Senate, but he shall vote only in case that the votes of the senators are equally divided.

ART. 74. In case of temporary or permanent absence of the President of the Republic, the Vice-President shall act in his place. If the absence is permanent, the Acting President shall continue in office until the end of the presidential term.

ART. 75. The Vice-President shall receive from the State a salary which may be changed at any time, but the change shall not go into effect until the next following presidential term.

TITLE IX.—THE SECRETARIES OF STATE.

ART. 76. For the transaction of the executive business, the President of the Republic shall have as many secretaries of State as the law may determine, and no one shall be a secretary of State who

is not a Cuban citizen in the full enjoyment of his civil and political rights.

ART. 77. All decrees, orders and decisions of the President of the Republic shall be countersigned by the secretary of State to whom the matter corresponds. Without this signature no decree, order or decision of the President shall have binding force nor shall it be obeyed.

ART. 78. The secretaries of State shall be personally responsible for the measures signed by them, and jointly and severally for the measures agreed upon or authorized by them at a cabinet meeting. This responsibility does not exclude the personal and direct responsibility of the President of the Republic.

ART. 79. The secretaries of State shall be impeachable before the Senate by the Chamber of Representatives in the cases mentioned in No. 2 of Article 47.

ART. 80. The secretaries of State shall receive from the State a salary which may be changed at any time, but the change shall not go into effect until the next following presidential term.

TITLE X.—THE JUDICIAL POWER.

SECTION I.—THE EXERCISE OF THE JUDICIAL POWER.

ART. 81. The judicial power¹ is vested in a Supreme Court of Justice and in all the other tribunals which may be established by law. The law shall regulate the respective organization and powers of these tribunals, the manner of exercising their powers, and the qualifications required of the judicial functionaries.

SECTION II.—THE SUPREME COURT OF JUSTICE.

ART. 82. To be Chief Justice or associate justice of the Supreme Court it is required:

1. To be a Cuban by birth.
2. To be over 35 years of age.
3. To be in the full enjoyment of civil and political rights, and not to have been condemned to any corporal punishment for common offenses.
4. To have in addition to the foregoing qualifications any one of the following:

To have practiced in Cuba, during ten years at least, the profession of lawyer; or have discharged for the same length of time judicial functions; or have taught law for the same number of years in an official establishment.

¹ Organic Law (on the judicial power) of 27 January 1909.

The following persons are also eligible for the positions of Chief Justice or associate justices of the Supreme Court, even if not having the qualifications set forth in Nos. 1, 2 and 3 of this article:

a. Those who have served in the judiciary for the time determined by law in a position of equal or immediately inferior category.

b. Those who, previous to the promulgation of this Constitution, served as justices of the Supreme Court of the Island of Cuba.

The time of service in the judiciary shall be computed as time of practice of law for the purpose of qualifying the lawyers to be appointed justices of the Supreme Court.

ART. 83. The Supreme Court shall have the following attributions, in addition to those already vested or hereafter to be vested in it:

1. To take cognizance of cases on a writ of error.

2. To decide conflicts of jurisdiction between courts immediately inferior to it, or not having a common superior.

3. To take cognizance of the cases to which the State on the one side and the provinces or municipalities on the other are parties.

4. To decide as to the constitutionality of the laws, decrees and regulations when a question to that effect is raised by any party.

SECTION III.—GENERAL RULES REGARDING THE ADMINISTRATION OF JUSTICE.

ART. 84. Justice shall be administered gratuitously throughout the entire territory of the Republic.

ART. 85. The courts shall take cognizance of all cases, whether civil, criminal, or between the government and private parties.

ART. 86. No judicial commissions or extraordinary tribunals, no matter under what name, shall ever be created.

ART. 87. No functionary of the judicial order shall be suspended or removed from his office except for crime or some other grave cause, fully proven, and always after being heard. Nor shall he be transferred without his consent to any other place, unless it is for the manifest benefit of the public service.

ART. 88. All judicial functionaries shall be personally responsible, in the manner and form determined by law, for the violations of law which they may commit.

ART. 89. The salaries of judicial functionaries shall not be changed except at the end of periods of more than five years, and by means of a law. The law, however, shall not give different salaries to positions whose rank, category and functions are equal.

ART. 90. The courts for the forces of land and sea shall be governed by a special organic law.¹

¹ Code of Military Procedure of 27 January 1909.

TITLE XI.—THE PROVINCIAL GOVERNMENT.

SECTION I.—GENERAL PROVISIONS.

ART. 91. A province consists of the municipal districts established within its limits.

ART. 92. Each province shall have a governor and a provincial council elected directly by the people, in the manner and form established by law.¹

The number of councilors in each province shall not be less than eight nor more than twenty.

SECTION II.—THE PROVINCIAL COUNCILS AND THEIR ATTRIBUTIONS.

ART. 93. The provincial councils shall have power:

1. To resolve upon matters concerning the provinces which, under the Constitution, treaties or laws, are not within the general jurisdiction of the State or the exclusive jurisdiction of the municipal councils.

2. To frame the budget of their expenses, providing at the same time for the necessary revenue to meet them, provided that this is done in a manner not inconsistent with the system of taxation adopted by the State.

3. To contract loans for public works of provincial interest, provided that at the same time sufficient revenue is raised to meet the payment of interest and principal when due.

Such loans shall not be carried into effect unless they are approved by two thirds of the municipal councils of the provinces.

4. To impeach before the Senate the governor of their respective province, in the cases set forth in No. 3 of Article 47, when two thirds of the total number of provincial councilors decide in secret session that this should be done.

5. To appoint and remove, according to law, the provincial employees.

ART. 94. The provincial councils shall have no power to diminish or abolish revenue of permanent character without creating at the same time some other revenue to take its place, except in case that the decrease or suppression are due to the decrease or suppression of equivalent permanent expenses.

ART. 95. The resolutions of the provincial councils shall be sent to the governor of the province. If approved, they shall be signed by him; if not, they shall be returned with his objections to the council, wherein the subject shall be again discussed. If after the second discussion the resolution is approved by two thirds of the total number of councilors it shall become a law.

¹ Organic Law (on provinces) of 2 June 1908.

If the governor does not return the resolution within ten days from the date of reference, it shall be considered approved and shall become a law.

ART. 96. The resolutions of the provincial councils may be suspended by the governor of the province or by the President of the Republic, whenever, in their opinion, they are contrary to the Constitution, the laws, or any resolutions passed by the municipal councils in due exercise of their functions; but the right to take cognizance of and pass upon the claims which may arise out of the said suspension shall be reserved to the courts of justice.

ART. 97. Neither the provincial councils nor any section or committee, selected from their members or from persons not members thereof, shall intervene in matters belonging to any class of elections.

ART. 98. The provincial councilors shall be personally responsible before the courts in the manner determined by law for whatever may be done by them in the exercise of their functions.

SECTION III.—THE GOVERNORS OF PROVINCES AND THEIR ATTRIBUTIONS.

ART. 99. The governors of provinces shall have the following powers:

1. To comply and cause others to comply, as far as their provinces are concerned, with the laws, decrees and general rules and regulations of the nation.

2. To publish such resolutions of the provincial councils as have force of law, and comply and cause others to comply with them.

3. To issue orders, instructions and rules for the proper execution of the resolutions of the provincial council, if the latter has not done so already.

4. To call the provincial councils to convene in extra session whenever in his own judgment the same may be necessary. The subjects to be discussed in this session shall be set forth in the call.

5. To suspend the resolutions of the provincial and municipal councils in the cases set forth in this Constitution.

6. To order the suspension of mayors, in case they have exceeded their powers, violated the Constitution or the laws, acted in contravention to the resolutions of the provincial councils, or failed to do their duty. The suspension shall be reported to the provincial council in the manner and form established by law.

7. To appoint and remove the employees of their offices in the manner provided by law.

ART. 100. The governors shall be responsible before the Senate in the cases set forth in this Constitution, and before the courts of justice, according to the provisions of the law, in all other classes of offenses.

ART. 101. The governors shall receive from the provincial treasury a salary which may be changed at any time, but the change shall not take effect until after the election of a new governor is held.

ART. 102. In case of temporary or permanent vacancy of the position of governor of the province, the president of the provincial council shall act in his place. If the vacancy is permanent, the acting governor shall continue in the discharge of his duties as such until the end of the term.

TITLE XII.—THE MUNICIPAL GOVERNMENT.

SECTION I.—GENERAL PROVISIONS.

ART. 103. The municipal districts shall be governed by municipal councils, consisting of aldermen or councilors directly elected by the people, in the number and in the manner provided by law.¹

ART. 104. There shall be in each municipal district a mayor elected by the people by direct vote in the manner and form established by law.

SECTION II.—THE MUNICIPAL COUNCILS AND THEIR ATTRIBUTIONS.

ART. 105. The municipal councils shall have power:

1. To resolve on all matters exclusively relating to their own municipal districts.
2. To prepare the budget of their expenses, providing at the same time the necessary revenue to meet them, on condition, however, that this is done in a manner consistent with the general system of taxation of the Republic.
3. To resolve on the negotiation of loans, providing at the same time the permanent revenue necessary to meet the interest and principal when due.

In order that these loans may be carried into effect, they shall have to be approved by two thirds of the electors of the municipal district.

4. To appoint and remove the municipal employees in the manner established by law.

ART. 106. The municipal councils shall not decrease or suppress any revenues of permanent character without establishing at the same time some other revenues which may take their place, except in case the decrease or suppression is due to the decrease or suppression of the equivalent permanent expense.

ART. 107. The resolutions of the municipal councils shall be referred to the mayor. If approved by him, they shall be authorized with his signature; if not, they shall be returned with his objection.

¹ Organic Law (on municipal districts) of 29 May 1908.

to the municipal council, wherein they shall be again discussed. If, after a second discussion, two thirds of the total number of councilors vote in favor of the resolution, it shall become a law.

When the mayor does not return the resolution, within ten days after the date of reference, it shall be considered approved and become a law.

ART. 108. The resolutions of the municipal councils may be suspended by the mayor, the governor of the province, or the President of the Republic, when in their opinion they are contrary to the Constitution, the treaties, the laws, or the resolutions passed by the provincial councils within the sphere of their powers. But the right to take cognizance and pass upon the claims which may arise out of said suspension shall be reserved to the courts of justice.

ART. 109. The members of the municipal councils shall be personally responsible before the courts of justice, in the manner and form established by law, for the acts done by them in the performance of their duties.

SECTION III.—THE MAYORS AND THEIR ATTRIBUTIONS AND DUTIES.

ART. 110. Mayors shall have power:

1. To publish such resolutions of the municipal councils as may have force of law, and execute and cause the same to be executed.
2. To administer the municipal affairs, issuing orders and instructions as well as rules for the better execution of the resolutions of the municipal councils, whenever the latter may fail to do so.
3. To appoint and remove the employees of their respective offices in the manner provided by law.

ART. 111. Mayors shall be personally responsible before the courts of justice, in the manner prescribed by law, for all acts performed by them in the discharge of their functions.

ART. 112. Each mayor shall receive a salary, to be paid by the municipal treasury, which may be changed at any time; but such change shall not take effect until after a new election for mayor has been held.

ART. 113. In case of vacancy, either temporary or permanent, of the office of mayor, the president of the municipal council shall act as mayor.

Should the absence be permanent, the substitute shall act until the end of the term for which the mayor was elected.

TITLE XIII.—THE NATIONAL TREASURY.

ART. 114. All property existing within the territory of the Republic not belonging to provinces, municipalities or private individuals or corporations shall belong to the State.

TITLE XIV.—AMENDMENTS TO THE CONSTITUTION.

ART. 115. The Constitution shall not be amended, in whole or in part, except by resolution passed by two thirds of the total number of members of each house of Congress.

Six months after the resolution to amend the Constitution has been passed, a Constitutional Convention shall be called to assemble for the exclusive and specific purpose of either approving or rejecting the amendment. Each house shall, in the meantime, continue to perform its duties with absolute independence of the Convention.

Delegates to the said Convention shall be elected by each province at the rate of one for every 50,000 inhabitants, in the manner that may be provided by law.

TRANSITORY PROVISIONS.

FIRST. The Republic of Cuba does not recognize any other debt or obligations than those legitimately contracted in favor of the revolution by commanders of bodies of the liberating army, subsequent to 24 February 1895 and prior to 19 September of the same year, on which date the Jimaguayú Constitution was promulgated and the debts and obligations contracted afterwards by the revolutionary government, either by itself or through its legitimate representatives in foreign countries. Congress shall examine said debts and obligations and decide upon the payment of those which are found legitimate.

SECOND. Persons born in Cuba, or children of native-born Cubans who, at the time of the promulgation of this Constitution, are citizens of any foreign nation, shall not enjoy the rights of Cuban nationality without first renouncing expressly their foreign citizenship.

THIRD. The time of service of foreigners in the wars of independence of Cuba shall be counted as time of naturalization and residence, for the acquisition of the right granted to naturalized citizens in Article 49.

FOURTH. The basis of population established in relation to the election of representatives in Congress, and of delegates to the Constitutional Convention, in Articles 48 and 115, may be changed by law, whenever, in the judgment of Congress, the change becomes necessary through the increase in the number of inhabitants, shown by censuses to be periodically taken.

FIFTH. At the time of the first organization of the Senate, the senators shall be divided into two groups for the purpose of the renewal.

Those forming the first group shall cease in their duties at the expiration of the fourth year, and those forming the second group

at the expiration of the eighth year. It shall be decided by lot which of the two senators from each province shall belong to either group.

The law shall provide the method to be followed in the formation of the two groups into which the Chamber of Representatives shall be divided for the purpose of its partial renewal.

SIXTH. Ninety days after the promulgation of the electoral law, which shall be framed and adopted by the Constitutional Convention, an election shall be held of the public functionaries provided by the Constitution, to whom the transfer of the government of Cuba, in conformity with the provisions of Order No. 301 of Headquarters, Division of Cuba, dated 25 July 1900, is to be made.

SEVENTH. All laws, decrees, regulations, orders and other provisions which may be in force at the time of the promulgation of this Constitution shall continue to be observed, in so far as they do not conflict with the said Constitution, until legally revoked or amended.

APPENDIX OF 12 JUNE 1901.¹

[PREAMBLE.]

The Constitutional Convention, acting in conformity with the order of the Military Governor of the Island, of 25 July 1900, by which it was called to assemble, resolves to attach, and does hereby attach to the Constitution of the Republic of Cuba adopted on 21 February ultimo, the following Appendix.

ARTICLE 1. The government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any way authorize or permit any foreign Power or Powers to obtain by colonization or for military or naval purposes, or otherwise, lodgment in or control over any portion of said island.

ART. 2. That said government shall not assume or contract any public debt to pay the interest upon which, and to make reasonable sinking-fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government, shall be inadequate.

ART. 3. That the government of Cuba consents that the United States may exercise the right to intervene² for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property and individual liberty, and for discharging the obligations with respect to Cuba imposed by the Treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba.

¹ See above, p. 151, note 4.

² This right was exercised in August 1906, when an insurrection broke out, the provisional government being undertaken by a United States Commission, which relinquished its office on 24 January 1909.

ART. 4. That all acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

ART. 5. That the government of Cuba will execute, and, as far as necessary, extend the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the Island to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein.

ART. 6. That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty.

ART. 7. That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations, at certain specified points, to be agreed upon with the President of the United States.¹

ART. 8. That, by way of further assurance, the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States.²

¹ Under treaties signed 2 July 1903, the United States has coaling stations in the Bay of Guantánamo and Bahía Honda, for which \$2,000 is paid annually.

² See above, p. 151, note 3.

EGYPT.

On 13 February 1841 (21 Dulkaada 1256), Egypt became the hereditary possession of the Sultan of the Ottoman Empire. In 1866 and 1867 imperial firmans extended the attributions of the Khedive so as to give him absolute power to do whatever was necessary for the internal administration of Egypt. An Assembly was established to deliberate upon the domestic interests of the country and a regulation in 61 articles determining the attributions of the Assembly was promulgated by the Khedive 20 November 1866.¹ In 1883 the British government undertook the political and administrative reorganization of the country and on 1 May an Organic Law was promulgated by the Khedive creating a number of representative institutions, including a Legislative Council, a General Assembly and Provincial Councils.² But these bodies were mainly consultative and the Khedive and his ministers retained most of the legislative power. An electoral law in 46 articles was promulgated the same date (24 Jomada I 1300). These two laws were replaced³ in July 1913 by the present Organic and Electoral Laws, by which for the Legislative Council and General Assembly was substituted a new body called the Legislative Assembly.⁴

ORGANIC LAW OF 21 JULY 1913.⁵

[PREAMBLE.]

We, Khedive of Egypt,

Whereas it is Our desire to endow Our country with an enlightened system of government, which, while assuring good administration, the protection of the liberty of the individual and the development of progress and civilization, shall be specially adapted to the country;

¹ French text in *Staatsarchiv*, 41 (no. 7741).

² French text is in the *British and Foreign State Papers*, 74: pp. 1095-1103, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 346-356.

³ See Article 54 below.

⁴ These introductory paragraphs are based upon DARESTE, *op. cit.*, pp. 345-346, and *The Statesman's Year Book* (1918).

⁵ Translation taken from the British Parliamentary Paper *Egypt*, No. 3A (1913) (London, 1913) [Cd. 6878], which also contains a translation of the Electoral Law of the same date. French text with the commentary of the British Consul-General at Cairo in the *British and Foreign State Papers*, 106: pp. 917-941. The date of the Khedive's decree is 1 July 1913 (26 Rajab 1331), but the law did not come into force until 21 July (see Article 55).

Whereas such a result can only be obtained by the loyal cooperation of all classes and the coordination of all interests with a view to the calm and considered development of a system of government which without being a servile imitation of Western methods, shall be capable of advancing the prosperity of the Egyptian people;

And whereas it is consequently Our intention to introduce amendments into the Organic Law with the object of improving Our legislative system, substituting for the present Organic Laws, Laws the objects of which are the fusion in a single Assembly of the Legislative Council and the General Assembly, the adoption of a wider and more rational method of election, the increase of the number of representatives entrusted with a share in the process of legislation, the grant to the new Assembly, and the organization of a procedure of consultation and initiative such as shall enable Our government to profit to a greater extent by the opinions and suggestions of the new Assembly with reference to the management of the internal affairs of Egypt;

Hereby decree:

PART I.

ARTICLE 1. There shall be:

1. A Legislative Assembly; and
2. A Provincial Council in each moodirieh.¹

PART II.—COMPOSITION OF THE LEGISLATIVE ASSEMBLY.

ART. 2. The Legislative Assembly shall be composed of *ex officio* members, of elected members and of nominated members.

The ministers shall be *ex officio* members.

There shall be sixty-six elected members, one of whom shall be elected by the Assembly as vice-president. These members shall be elected in accordance with the forms and conditions prescribed by the Electoral Law.

There shall be seventeen nominated members, that is to say, a president, a vice-president and fifteen members, chosen with a view to securing the representation of minorities and interests not represented by the elected portion of the Assembly.

The elected and nominated members shall be entitled to an allowance.

A decree promulgated at the instance of Our Council of Ministers shall determine the composition of the Legislative Assembly after the election.

¹ That is, in each province.

ART. 3. The seats of the elected members shall be assigned as follows:¹

Cairo.....	4
Alexandria.....	3
Gharbleh.....	7
Menoufieh.....	5
Dakallieh.....	5
Behera.....	5
Sharkieh.....	5
Kalioubieh.....	3
Gizeh.....	3
Beni-Souef.....	2
Fayoum.....	6
Minieh.....	4
Assiut.....	5
Girgeh.....	4
Kena.....	4
Assuan.....	1
Port Said and Ismailia.....	1
Suez.....	1
Damietta.....	1

The fifteen members to be nominated by the government shall be chosen in such a way as to assure to the different classes of the population a minimum representation in the Assembly according to the following table:

Copts.....	4
Arab Bedouins.....	3
Business men.....	2
Medical men.....	2
Engineer.....	1
Representative of general or religious education.....	1
Representative of the municipalities.....	1

ART. 4. The mandate of the nominated and elected members of the Legislative Assembly shall last six years. The nominated and elected members shall respectively be renewed by thirds every two years. The first partial renewal of the General Assembly shall take place after a period of two years and the second after a period of four years. The selection of the outgoing members shall be made by lot. The same rules shall apply in the case of the renewal of the Assembly as a whole.

ART. 5. The members of the Legislative Assembly shall, at the first sitting or before acting in their office, take an oath of fidelity to Our Person and of obedience to the laws of the land.

¹ The spelling of these proper names has been made to conform to *Funk and Wagnalls New Standard Dictionary of the English Language* (New York and London, 1915.)

ART. 6. Except for the cases of forfeiture mentioned in the Electoral Law, members of the Assembly shall only be deprived of their office by decree issued at the instance of Our Council of Ministers in pursuance of a resolution passed by the Assembly by a three quarters majority.

ART. 7. In the case of a seat in the Assembly becoming vacant, a new election shall take place or a new member be nominated, as the case may be, within three months at the latest. The mandate of the new member shall last only until the expiry of the mandate of the member whom he replaces.

ART. 8. The Legislative Assembly may be dissolved by Us at any time by decree issued at the instance of Our Council of Ministers.

In case of dissolution, the new nominations and elections shall take place within three months.

The selection of the members to go out at the first and second partial renewals of the new Assembly shall be made by lot.

Such partial renewals shall always take place in the month of January following the completion of the period of two years fixed by Article 4.

PART III.—POWERS AND ATTRIBUTIONS OF THE LEGISLATIVE ASSEMBLY

ART. 9. No law shall be promulgated without having been previously submitted to the Legislative Assembly for its opinion.

All measures respecting the internal affairs of Egypt which relate to the organization of authority in the State or affect the civil or political rights of the generality of its inhabitants, as well as all decrees regulating matters of public administration, shall be considered as "laws."

All other measures may lawfully be taken under decrees promulgated by Us on the advice of Our Council of Ministers.

ART. 10. No law or decree shall be promulgated without being countersigned by the president of the Council of Ministers and the ministers concerned.

ART. 11. The Assembly shall possess the right of initiating legislation except as concerns the constitutional laws.

When the Assembly has been seized by one or more of its members of a bill, it shall decide at a public sitting whether or not it shall be taken into consideration.

In the case of its being taken into consideration, the proposed text shall be submitted to a committee and shall thereafter be examined by the Assembly sitting in committee. In the case of approval, the bill shall be transmitted to the Council of Ministers.

If the Council approves the bill, it shall send it back to the Assembly with or without amendments, in order that it may there be dealt with according to the usual forms. In the contrary event, the

Council of Ministers shall notify the Assembly of the reasons for its decision. Such reasons shall not be made the ground of any discussion.

In no case shall the bill be discussed by the Assembly at a public sitting without having been previously approved by the Council of Ministers.

ART. 12. When the Legislative Assembly is seized by the government of a bill, it may accept it without amendment, it may amend it, or it may reject it.

ART. 13. If the government does not agree with the Assembly, it shall send back the bill, together with a statement of its views.

The Assembly may discuss the explanations of the government, and if it persists in its disagreement, a conference shall take place between the Council of Ministers and the Assembly, sitting in committee.

ART. 14. If the conference does not result in an agreement, the examination of the bill under consideration shall be adjourned for a period of fifteen days. At the end of such period the bill shall again be submitted to the Assembly, either in its original form, or with such alterations as the government considers it advisable to make in it; so, nevertheless, that the government shall not depart from the principle of the original bill or from that of the amendments which have been introduced into it.

ART. 15. If after the adjournment provided for in Article 14 the Assembly and the government are still in disagreement, the latter may either dissolve the Assembly, or may promulgate the law in the form in which it last put it forward, or with such modifications as it may think right to accept.

The government shall inform the Assembly of the reasons which have led it to disregard the opinion of the Assembly.

ART. 16. In the event of the dissolution of the Legislative Assembly, under the provisions of Article 15, on account of the continuance of disagreement between the government and the Assembly, the bill which has given rise to such disagreement may be submitted to the new Assembly at its first sitting, and shall in that case take precedence of all questions except the budget. The bill thus submitted shall be considered as a new bill and shall be examined in the ordinary manner.

ART. 17. No new direct tax, land tax, or personal tax, shall be imposed in Egypt without having been discussed and voted by the Legislative Assembly.

ART. 18. The Legislative Assembly shall be asked for its opinion as to:

1. Every public loan.
2. Every general scheme for the construction or suppression of canals, drains, or railways which affects several provinces.

3. The general classification of the land in the country, from the point of view of the land tax.

The government shall, if the case arises, communicate to the Assembly the reasons for which it has not accepted its opinion.

ART. 19. The Legislative Assembly may express opinions or pass resolutions, either spontaneously or upon a request from the government, relating to matters or bills submitted for its consideration. The matters on which the Assembly may spontaneously express opinion and pass resolutions as regards the internal affairs of Egypt are economic, administrative and financial matters.

The government shall, if the case arises, communicate to the Assembly the reasons for which it has not accepted any opinion expressed or resolution passed by it.

ART. 20. The services of the civil list, the tribute, and the public debt, and, generally, the charges and obligations resulting from the law of liquidation or from international agreements, as well as questions concerning foreign Powers and the relations of Egypt with them shall not be made the subject of any decision, discussion, observation, or representation.

Questions relating to the nomination, promotion, transfer, prosecution, or dismissal of a public servant, or of any person entrusted with a public duty, or with any other measure affecting any such public servant or persons in his individual capacity, shall equally be outside the competence of the Assembly.

ART. 21. Every resolution passed by the Legislative Assembly which is not in conformity with the provisions of the present Law shall be null and void.

ART. 22. The general budget of revenue and expenditure shall be communicated to the Legislative Assembly one month at least before the end of the financial year.

The Legislative Assembly may express opinions, submit observations, or pass resolutions on any section of the budget except those referring to questions mentioned in Article 19.

Such opinions, observations, or resolutions shall be transmitted to the Minister of Finance, who shall, if the case arises, give the reasons for the rejection of the suggestions of the Assembly.

The Legislative Assembly shall have the right to discuss the explanations thus furnished and to formulate new observations.

ART. 23. In any event the budget shall be put into force by decree issued at the instance of our Council of Ministers five days before the end of the financial year at the latest.

During the month following the publication of the budget, the Ministry of Finance shall furnish the Legislative Assembly with the reasons as to any new observations which have not been accepted.

ART. 24. The general accounts of the Department of Finance drawn up for the past financial year shall be presented annually to the Legislative Assembly for its opinion, observations and criticisms four months at least before the introduction of the new budget.

ART. 25. Every Egyptian may address Us by petition.

Such petitions shall be forwarded to the president of the Legislative Assembly and shall after examination by the Assembly be rejected or taken into consideration.

All petitions which are taken into consideration shall be sent, for such action as the case may call for, to the minister concerned, who shall inform the Assembly of the action taken.

ART. 27. The members of the Legislative Assembly shall be entitled to put questions to ministers with regard to administrative matters of general interest, subject to the following conditions:

1. They shall at least five days in advance send to the secretariat of the Legislative Assembly a written notice containing the entire text of the question.

Nevertheless, in case of urgency, and with the approval of the president of the Assembly and of the minister concerned, a question may be put after twenty-four hours' notice in writing.

2. The president of the Legislative Assembly, sitting with the two vice-presidents, shall reject or return for modification any question which in his opinion contains improper expressions or personal attacks, or is of a nature to provoke animosity between the different elements of the population, as also any question affecting the relations and arrangements with the Powers.

ART. 28. The ministers or their representatives shall reply to the questions thus asked; they may, nevertheless, refuse to reply to a question if they consider that to do so would be contrary to the public interest.

ART. 29. The replies of the ministers or of their representatives shall not be made the subject of any discussion. Nevertheless, the members of the Assembly shall have the right, with the approval of the president, of putting supplementary questions, but only with a view to elucidating points raised by the ministerial reply.

PART IV.—THE PROCEDURE OF THE LEGISLATIVE ASSEMBLY.

ART. 30. The Legislative Assembly shall meet annually on 1 November, and shall continue its session till the end of May the following year.

It may also be summoned by Us whenever circumstances require it to meet.

Neither ordinary nor extraordinary sessions shall terminate until the Legislative Assembly has communicated to the government its opinion on all the questions submitted to it.

ART. 31. Ministers shall have the right to be assisted or represented for special matters by high officials of their department.

ART. 32. The sittings of the Legislative Assembly shall be public subject to the provisions of such standing orders as the Assembly shall pass with respect thereto.

Conferences with the Council of Ministers and meetings of the Assembly when sitting in committee shall not be public.

ART. 33. The Legislative Assembly can not take valid decision unless two thirds at least of its members, excluding those on regular leave of absence, are present.

Except when a three-quarters majority is required, resolution shall be passed by majority of votes.

When the votes are equally divided, the president shall have casting vote.

Votes shall not be given by proxy. Voting shall be open, unless the Assembly decides in the public interest that it shall be by ballot.

ART. 34. The president of the Legislative Assembly shall appoint the staff required for the despatch of the business of the Assembly.

PART V.—ATTRIBUTIONS OF PROVINCIAL COUNCILS.

ART. 35.—*a.* The Provincial Council may vote temporary taxes in the moodirieh to cover expenditure for public purposes, including education.

It may assign the whole of these taxes to education. Within limit of 5 per cent. of the whole total of the land tax in the moodirieh, the decision of the Council shall be final, both with regard to its imposition and to its allocation, and shall form the subject of decree.

In the event of the Council exceeding this limit, its decision regards the excess shall not be final until it has been approved by the government and sanctioned by decree.

The rules regarding public money shall apply to the levy, saving keeping and expenditure of the proceeds of the taxes in question.

The Council shall have the right to control the expenditure of that portion of the proceeds of which it has not disposed directly whether by virtue of the present Law or some other law.

b. Except as provided for in the annual budget, which shall be voted by the Council for a period of twelve months, commencing 1 January, and be approved by the Minister of the Interior, no payment out of the funds destined to be spent directly by the Council

shall be made without the special authority of the Minister of the Interior.

c. The Ministry of Finance has the right to inspect and verify the accounts of the Provincial Councils.

d. The Council may, through its president, demand from the public services of the moodirieh full information on the subject of the work for which they are responsible.

Arr. 36. Independently of the attributions conferred on it by the express provisions of the present Law or of any other law, the Council may be consulted by the moodir or by any minister on any question as to which the moodir or minister thinks it expedient to obtain its opinion. The Council may, further, submit spontaneously to the moodir, or through the latter to any minister, or to the Council of Ministers, representations on the subject of the general needs of the province, and notably on the subject of agriculture, irrigation, means of communication, public security, public health and education.

Nevertheless:

a. The Provincial Council shall not be competent to take cognizance of any question coming within the scope of the local commissions or of the mixed local commissions set up in the moodirieh.

b. The Provincial Council shall not deliberate on the appointment, transfer, discipline, or dismissal of public servants.

Art. 37.—1. The preliminary opinion of the Provincial Council shall be necessary as to the following questions:

- (1) The alteration of the boundaries of the moodirieh;
- (2) The establishment or suppression of a local commission within the moodirieh;
- (3) The establishment, transfer, or suppression of government schools or hospitals and public cemeteries;
- (4) The purchase, sale, exchange, construction, repairing, or change in the purpose for which buildings and immovable property belonging to the State in the moodirieh are used;
- (5) The application of a law to a bandar or village in the moodirieh or the decision to apply it no longer;
- (6) The regulation of the application of a law in a bandar or village in the moodirieh;
- (7) Alterations in administrative and judicial circumscriptions in the moodirieh;
- (8) Alterations in the boundaries of the bandars or villages; the creation of new villages; the suppression of villages existing in the moodirieh;
- (9) The construction of agricultural railways in the moodirieh and the fixing of their route;
- (10) The grant of concessions in the moodirieh either to companies or private individuals.

2. The consent of the Provincial Council shall be obligatory as regards the following measures, before any steps are taken to execute them:

a. The promulgation, modification, or abrogation by the moodir of a local regulation, whether for the whole or a part of the moodirieh, or for certain bandars or villages of the moodirieh.

b. The application of an order or regulation to a bandar or village, or the decision to apply to the order no longer.

c. The regulation of the application of an order or regulation in a bandar or village of the moodirieh.

Nevertheless, the provisions of Sections *a*, *b* and *c* (*supra*) shall not apply to provisional orders and regulations enacted or applied in the case of an epidemic or other circumstances having an urgent character. In this case the moodir shall at the first meeting of the Council inform it of the reasons for which its consent has been dispensed with. In the same way the said provisions shall not apply to questions coming within the scope of a local commission or of mixed local commission of the moodirieh, or to measures provided for by a law on which the Legislative Assembly has expressed its opinion.

ART. 38. There shall be submitted to the Provincial Council for its opinion the annual program of the Ministry of Public Works, concerning the following matters:

a. The construction of canals and public drains.

b. The cleaning out of canals and public drains.

In the case of the Ministry of Public Works judging it necessary to modify in any way a resolution of the Provincial Council it must consult the Council on the modification.

c. The rotation of irrigation during low water.

Nevertheless, the fact of submitting to the Council the program of rotation shall not deprive the Ministry of Public Works and its agents of the right to modify the order of rotation, in case of urgency, without first asking the opinion of the Provincial Council. In this case the Council, at its first meeting, shall be informed of the reasons which have led to the modification.

ART. 39. From the coming into force of the present Law, no fair or market shall be held at any place in the moodirieh where it was not held periodically before this date, unless authority has previously been given by the moodirieh, with the consent of the Provincial Council.

Fairs and markets held in breach of the provisions of the present article shall be closed by the moodir by administrative service.

Nevertheless:

a. The present article shall not be applicable to markets established by virtue of a concession granted before the entering into force of the present Law;

b. No authorization shall be accorded under the present article contrary to the terms of a concession already granted;

c. No authorization granted under the present article shall dispense with the obligation to conform with all sanitary or other regulations in force in fairs or markets.

ART. 40.—*a.* The Provincial Council shall fix, subject to the approval of the Ministry of the Interior, the number of ghaffirs necessary to guard each bandar or village in the moodirieh, except those having a local commission or a mixed local commission; it shall also determine the different classes of ghaffirs;

b. The Council shall fix, under the same conditions, the wages of the ghaffirs, taking into consideration the rate of wages current in the different parts of the moodirieh;

c. If, before 1 January of each year the Council has not altered the number of ghaffirs in any bandar or village, or the rate of their wages, the number of ghaffirs employed in the bandar or village and the rate of their wages shall remain the same as in the preceding year.

Nevertheless, the Ministry of the Interior may, after having taken the opinion of the Council, increase the number of ghaffirs in any bandar or village, if the increase appears to him necessary in the interests of public security.

d. A committee of the Provincial Council shall be appointed annually to decide without appeal the claims formulated against the apportioning between the various dwellings of the sum necessary for the maintenance of the ghaffirs in a bandar or village other than those possessing a local commission or a mixed local commission.

ART. 41.—1. The Provincial Council shall have the following attributions as regards ezbehs:

a. No ezbeh shall be constructed in a province without the prior authorization of the moodirieh given with the assent of the Provincial Council.

The Council shall take into consideration the area of the lands belonging to the petitioner in the place where the ezbeh has been constructed, the number of persons employed in the cultivation of these lands, the distance between the said lands and any village or other locality where lodging could be found and the possibility of arranging in a satisfactory manner for the protection of the ezbeh without excessive expense.

Requests for authority to construct an ezbeh must be accompanied by a plan of the spot, a plan of the buildings, and by all other information required to enable the Council to arrive at a decision, in accordance with the provisions of the present article.

b. The Council may at any time decide to demolish an ezbeh, even an authorized one, if it serves habitually as a refuge for persons of bad character or if criminals find asylum therein.

c. The Council may decide to demolish any ezbeh constructed without authority, either before or after the coming into force of the present Law, if the provision of watchmen is too difficult or costly, or having regard to the number of its inhabitants and their conditions of existence.

Nevertheless:

a. No decision shall be taken by virtue of paragraphs b and c of this article until the owner of the ezbeh has been invited to express his views before the Council or before a committee of the Council, nor without the approval of the Council of Ministers;

b. No authorization shall be given for the construction of an ezbeh within 100 metres of the embankment of the Nile, or a public drain, or a cemetery, or within 300 metres of a birket situated to the north of the site proposed for the ezbeh or within 200 metres of any other birket;

c. Any refusal to grant authorization shall be subject to an appeal before the Minister of the Interior.

2. If an ezbeh has been constructed, or the construction of an ezbeh is undertaken, without the authority of the moodir or the Minister of the Interior, in the case of appeal the administration may proceed to demolish the ezbeh before its completion, or within six months of its completion.

The moodir shall have its demolition proceeded with by administrative service. The expenses of demolition shall be recovered from the owner of the ezbeh or the owner of the land on which the ezbeh was being constructed in the form prescribed by the Decree of March 1880.

ART. 42. In addition to the development of elementary education (including training in agriculture and handicraft), the Council is empowered to supervise the development in the moodirieh of education in all its branches and grades in the following manner:

a. It may decide to establish or acquire schools in the moodirieh and provide for their management, and shall have all the powers necessary for the purpose.

b. Independently of schools thus established or acquired, the Council may equally take over the control of any other school in the moodirieh and arrange for its management, provided that the allocation of buildings to the needs of education is permanently guaranteed and that the effective control of the school is secured to the Council by the conditions stipulated in the act of transfer.

c. In order to establish a uniform system in the whole moodirieh, the Council may issue regulations and schemes for the management of schools of different categories, besides those established or acquired, or managed in conformity with the preceding paragraphs; it may confer the title of "recognized schools" on schools managed

n conformity with the said regulations and the owners or managers of which submit to the conditions laid down on the subject.

d. It may associate with itself four persons at the most, chosen from those particularly interested in education in the moodirieh, who shall be present to give their advice at the meetings held by the Council for the purpose of deciding questions connected with education, and in the case of the institution of a committee for education such persons shall be members of it *ex officio*.

The mandate of the said persons shall be for two years; it is renewable.

e. The Council may set up committees composed of members of its own body or of the persons interested in education in the moodirieh. These communities shall be entrusted each with the management of one or more schools. The Council shall define their powers itself.

f. It may accept gifts of money, which are destined, or real property, the revenues of which are destined, to the needs of education in the moodirieh generally or in stated localities.

It may also accept subscriptions presented for special objects coming within the scope of the Council in matters of education; in this case the subscriptions shall be spent in accordance with the conditions of the gift.

g. Seventy per cent. of the total of the taxes destined for education shall be appropriated by the Council for elementary education, including training in agriculture and handicraft. The thirty per cent. remaining shall be used for the benefit of primary education and that of higher grades.

In the exercise of powers conferred by the present article the Council shall observe as far as possible the general principles contained in any general regulation promulgated by a law or an order of the Minister of Public Education.

ART. 43. The Council shall, within a reasonable period from the day on which it was notified thereof, examine any question submitted to it under the present law or any other law, and express its opinion.

If the Provincial Council refuses to express its opinion, or if it does not express it within a reasonable time, the Council of Ministers may decide to dispense with it.

PART VI.—COMPOSITION AND PROCEDURE OF PROVINCIAL COUNCILS.

ART. 44. The Provincial Councils shall be composed as follows:

Each Council shall consist of two representatives of each markaz of the moodirieh, elected by the elector-delegate of the villages in the markaz.

The two representatives must be domiciled in the circumscription of the markaz which they represent.

For the purposes of this provision :

1. The capital of a moodirieh with its own administrative organization shall be considered as forming part of the markaz in the circumscription of which it is situated.

2. Every markaz, the population of which does not exceed 20,00 inhabitants, and every administrative subdivision of a moodirieh not forming a markaz, shall be amalgamated with other markazes by order issued by the Minister of the Interior with the assent of the Council of Ministers.

The moodir shall be the president of the Provincial Council, and if absent or prevented from attending, he shall be replaced by the sub-moodir.

The Provincial Councils thus constituted shall be considered to be corporations. They shall be represented by the moodir for the purpose of the exercise of the powers and the carrying out of the duties assigned to them.

ART. 45. The representatives of the markazes in the Provincial Councils shall be elected for four years. One representative of each markaz shall retire every two years in turn.

The retiring members of the Council shall continue to perform their duties until the appointment of their successors. They may be reelected.

ART. 46. In the case of a seat of a member of a Provincial Council becoming vacant, a new election shall take place within three months at the outside. The mandate of the new member shall last only until the expiration of the mandate of the member he replaces.

ART. 47. Each newly-elected member of the Provincial Council shall, before he enters upon his duties, take before the moodir the oath of fidelity to the Khedive and of obedience to the laws of the country.

ART. 48. Every member of a Provincial Council who, without reason considered by the Council as sufficient, shall be absent during three consecutive sessions shall be declared by the Council to have forfeited his seat.

By "session" is understood one or more consecutive sittings held by virtue of a single summons.

Except for the cases of forfeiture of seats provided for by the Electoral Law, the members of the Provincial Council shall not be dismissed save by decree issued at the instance of Our Council Ministers on a resolution passed by the Provincial Council by three-quarters majority.

ART. 49. The Provincial Councils shall assemble at the times fixed by their standing orders, or otherwise when summoned by the moodir.

The moodir may at any time summon the Council to a special sitting, and it shall be obligatory for him to do so whenever a written demand to this effect is made to him, signed by at least one third of the members of the Council.

Excepting members of the Provincial Council, no one may be present at the sittings of the Council or at those of its committees without being invited by the Council or moodir for the better elucidation of the questions under discussion.

Nevertheless, each minister may appoint one or more delegates to be present at those sittings of the Provincial Council or its committees at which questions relating to a service under his department are to be discussed. These delegates shall take part in discussions without voting.

The moodir, or the sub-moodir for him, shall be an *ex officio* member of all the committees of the Council. He shall preside over every sitting at which he is present.

The sittings of the Council shall not be in order unless the number of members present exceeds one half. Decisions shall be taken by a majority of votes, and in case of an equal division the president shall have a casting vote.

The Minister of the Interior may enact, by order approved by the Council of Ministers, regulations of general application for the working of the Provincial Councils.

While complying with the general regulations, each Provincial Council may, with the approval of the Minister of the Interior, draw up its own standing orders.

ART. 50. The dissolution of a Provincial Council may be pronounced at any time by a decree stating the reasons for this course. In this case there shall be a fresh election within three months from the date of dissolution.

PART VII.—INTERPRETATION.

ART. 51. All questions arising as to the interpretation of the present Law shall be decided definitively by a special commission composed of two ministers, one of whom shall be the Minister of Justice, who shall preside, and the other of whom shall be nominated by the Council of Ministers, of two members of the Legislative Assembly chosen by that Assembly, and of the president, the vice-president and the senior judge of the Native Court of Appeal.

PART VIII.—MISCELLANEOUS AND TRANSITORY PROVISIONS.

ART. 52. The first partial renewal of the Legislative Assembly shall take place in January 1916, the second in January 1918, and the third in January 1920.

The selection of the members to go out at the first and second renewals shall be made by lot.

ART. 53. The existing members of the Provincial Councils shall remain in office until their mandate runs out. Nevertheless, in order to secure the retirement of half of the members every second year as required by Article 45, the representative whose mandate would normally run out at the end of 1916 shall only remain in office until the end of 1915.

ART. 54. The Organic Law of 1 May 1883, as successively amended by the decree of 29 September 1883, and by Laws Nos. 3, 18 and 22 of 1909, Law No. 2 of 1911 and Law No. 7 of 1912, is hereby repealed, as are all provisions of laws, decrees, superior orders or regulations which are in conflict with the provisions of the present Law.

ART. 55. Our ministers are charged, each so far as he is concerned therein, with the execution of the present law, which shall come into force as from the date of its publication in the *Official Journal*. The Law shall, in addition, be placarded in all towns and villages throughout Egypt.¹

¹ Here follow the signatures of the Khedive Abbas Hilmi and the six ministers.

FRANCE.

Since 1789 France has undergone numerous changes in government, and each change has been embodied in constitutional documents. It will suffice here to enumerate the several constitutions which were in force before the definite establishment of the Third Republic:

1. The Constitution of 3 September 1791 established a limited monarchy, but disappeared with the fall of the King in the succeeding year.

2. The Republican Constitution of 24 June 1793 had not been put in force before the fall of the Jacobins who framed it, and was disregarded by those who succeeded to their power.

3. The Constitution of 22 August 1795 vested the executive power in five Directors, and the legislative power in a Council of Five Hundred and a Council of Ancients. It represents the conservative reaction from the Jacobin principles of 1793.

4. The usurpations of the Directory and the coup d'état of 9 November 1799 put an end to the Constitution of 1795. Under the Constitution of 13 December 1799 Napoleon gained as First Consul the supreme executive power to which he aspired.

5. The *senatus-consulta* of 2 and 4 August 1802 proclaimed Napoleon First Consul for life with extended powers, and on 18 May 1804 the Consulate was replaced by the Empire. The Constitution was altered by several other less important acts between 1804 and 1814. Intimately connected with the first Imperial Constitution is the Additional Act of 22 April 1815, which by its liberal principles attempted to outbid the Bourbon Charter of 1814; the Additional Act disappeared with the defeat of Napoleon at Waterloo.

6. Upon the restoration of the Bourbons the Constitutional Charter of 4 June 1814¹ was issued by Louis XVIII; with this Constitution was first established the parliamentary system with ministerial responsibility; the legislature was composed of two houses, one appointive, the other elective, but with a very limited electorate.

7. The Constitution of 14 August 1830² and the organic laws of 1831 came as a result of the July revolution of 1830. The Constitution of 1814 remained almost unchanged, except for a limited extension of the suffrage and the abolition of hereditary peerages.

¹ French text in the *British and Foreign State Papers*, 1 : pp. 960-966.

² French text in the *British and Foreign State Papers*, 17 : pp. 1013-1018.

8. The Republican Constitution of 4 November 1848¹ introduced universal suffrage, with an unicameral legislature, and an elected president chosen for four years and ineligible to succeed himself.

9. The Constitution of 14 January 1852² extended for 10 years the power of Louis Napoleon Bonaparte as President of the Republic; the *senatus-consultum* of 7 November,³ ratified by the plebiscite of 21 and 22 November 1852, reestablished the Empire. Between 1852 and 1870 the Constitution was altered by numerous *senatus-consulta*, the most important of which was that of 8 September 1869, establishing ministerial responsibility.

10. The *senatus-consultum* of 21 May 1870, a codification of constitutional changes since 1860, was really a new Imperial Constitution, and was submitted to a vote of the people as such.

11. Imperial institutions in France were now destined to be of short duration; the Empire disappeared on 4 September 1870, when news reached Paris of the French disaster at Sedan. The Government of the National Defense, which succeeded the Empire, gave way in February, 1871, to a National Assembly which chose Thiers chief of the executive power of the French Republic.

For two years after 1871 nothing was done by the National Assembly toward the permanent establishment of the Republic. In fact the majority of the Assembly were monarchists; the overthrow of Thiers and the election of Marshal de MacMahon as President were considered the first steps toward the restoration of monarchy, but the attitude of the Comte de Chambord wrecked the hopes of his supporters. Definite steps toward a constitutional organization were not taken until hope of a restoration of the Bourbons had disappeared.

Even after the failure to reestablish the Monarchy the majority of the National Assembly hoped to prevent the permanent establishment of the Republic. But the provisional organization of the Government could not continue forever, nor could the Assembly, elected to meet the national crisis of 1871, expect much longer to remain in power. The constitutional and organic laws were finally enacted in 1875, and the elections of 1876 proved that the people of France were ready to support republican institutions. In addition to these laws, some subsequent laws bearing upon constitutional matters have been included here.⁴

¹ French text in the *British and Foreign State Papers*, 36: pp. 1072-1085.

² French text in the *British and Foreign State Papers*, 41: pp. 1085-1090.

³ French text in the *British and Foreign State Papers*, 41: pp. 1095-1098.

⁴ These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. 1, pp. 283-285. There is also a very good account in F. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. pp. 1-9.

CONSTITUTIONAL LAW OF 25 FEBRUARY 1875.¹

ON THE ORGANIZATION OF THE PUBLIC POWERS.

ARTICLE 1. The legislative power shall be exercised by two assemblies: The Chamber of Deputies and the Senate.

The Chamber of Deputies shall be elected by universal suffrage, under the conditions determined by the electoral law.²

The composition, the method of election and the attributions of the Senate shall be regulated by a special law.³

ART. 2. The President of the Republic shall be chosen by an absolute majority of votes of the Senate and Chamber of Deputies united in National Assembly. He shall be elected for seven years. He shall be eligible for reelection.

ART. 3. The President of the Republic shall have the initiative of laws, concurrently with the members of the two houses. He shall promulgate the laws when they have been voted by the two houses⁴; he shall look after and secure their execution.

He shall have the right of pardon; amnesty may only be granted by law.⁵

He shall dispose of the armed force.

He shall appoint to all civil and military positions.

He shall preside over State functions; envoys and ambassadors of foreign powers shall be accredited to him.

Every act of the President of the Republic shall be countersigned by a minister.

ART. 4. As vacancies occur on and after the promulgation of the present law, the President of the Republic shall appoint, in the Council of Ministers, the councilors of State in regular service.

The councilors of State thus chosen may be dismissed only by decree rendered in the Council of Ministers.⁶

¹ Promulgated in the *Journal officiel* of 28 February 1875. Translation of this and the following laws based upon DODD, *op. cit.*, pp. 286-288, which in turn was based upon the translation by C. F. A. CURRIER in the *Supplement to the Annals of the American Academy of Political and Social Science*, March, 1893 (Philadelphia, 1893), and in *Foreign Constitutions* [The Convention Manual of the Sixth New York State Constitutional Convention, 1894, part 2, vol. 3] (Albany, 1894), pp. 230-255. French texts in DARESTE, *op. cit.*, pp. 10-37, and PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 564-587.

² See Laws of 30 November 1875, 16 June 1885, 13 February 1889 and 17 July 1889, on pp. 203, 213, 214 and 215, respectively.

³ See Constitutional Law of 24 February 1875 and Laws of 2 August 1875 and 9 December 1884, on pp. 195, 198 and 210, respectively.

⁴ See Article 7 of the Constitutional Law of 16 July 1875 on p. 196.

⁵ The houses may, without amending the Constitution, decide that pardons granted by the President of the Republic shall, under certain conditions, produce all the effects of amnesty (Laws of 3 March 1879 and 11 July 1880).

⁶ The Council of State is now governed by the Laws of 24 May 1872 and 13 July 1879. Clause 3 of the above article has been omitted, because it ceased to have application after 1881.

ART. 5. The President of the Republic may, with the advice of the Senate, dissolve the Chamber of Deputies before the legal expiration of its mandate.

In that case the electoral colleges shall be assembled for new elections within the space of 2 months, and the Chamber within the 15 days following the close of the elections.¹

ART. 6. The ministers shall be collectively responsible to the houses for the general policy of the government, and individually for their personal acts.

The President of the Republic shall be responsible only in case of high treason.²

ART. 7. In case of vacancy by death or for any other reason, the two houses assembled together shall proceed at once to the election of a new President.³

In the meantime the Council of Ministers shall be vested with the executive power.

ART. 8. The houses shall have the right by separate resolution taken in each by an absolute majority of votes, either upon their own initiative or upon the request of the President of the Republic, to declare a revision of the constitutional laws necessary.⁴

After each of the two houses shall have come to this decision they shall meet together in National Assembly to proceed with the revision.

The acts effecting revision of the constitutional laws, in whole or in part, shall be passed by an absolute majority of the members composing the National Assembly.⁵

The republican form of government shall not be made the subject of a proposed revision.⁶

Members of families that have reigned in France are ineligible for the Presidency of the Republic.⁶

ART. 9.⁷

¹ As amended by Article 1 of the Constitutional Law of 14 August 1884.

² See Article 12 of the Constitutional Law of 16 July 1875, on p. 197.

³ See Article 3 of the Constitutional Law of 16 July 1875, on p. 196.

⁴ Article 8 has been put into practice twice, in 1879 and in 1884. See the introductory paragraphs preceding this law.

⁵ The clause following this, concerning the presidency of Marshal de MacMahon, is now without object.

⁶ Added by Article 2 of the Constitutional Law of 14 August 1884.

⁷ Repealed by the Constitutional Law of 21 June 1879. Article 9 originally read

"The seat of the executive power and of the two houses shall be at Versailles." See Law of 22 July 1879, on p. 208.

CONSTITUTIONAL LAW OF 24 FEBRUARY 1875.¹

ON THE ORGANIZATION OF THE SENATE.

ARTICLES 1-7.²

ART. 8. The Senate shall have, concurrently with the Chamber of Deputies, the power to initiate and to pass laws. Money bills, however, shall first be introduced in and passed by the Chamber of Deputies.³

ART. 9. The Senate may be constituted a court of justice to try either the President of the Republic or the ministers, and to take cognizance of attacks made upon the safety of the State.⁴

ART. 10. Elections to the Senate shall take place one month before the time fixed by the National Assembly for its own dissolution. The Senate shall organize and enter upon its duties the same day that the National Assembly is dissolved.

ART. 11. The present law shall be promulgated only after the passage of the law on the public powers.

CONSTITUTIONAL LAW OF 16 JULY 1875.⁵

ON THE RELATIONS OF THE PUBLIC POWERS.

ARTICLE 1. The Senate and the Chamber of Deputies shall assemble each year on the second Tuesday of January, unless convened earlier by the President of the Republic.

The two houses shall continue in session at least five months each year. The sessions of the two houses shall begin and end at the same time.⁶

ART. 2. The President of the Republic pronounces the closing of the session. He may convene the houses in extraordinary session.

He shall convene them if, during the recess, an absolute majority of the members of each house request it.

The President may adjourn the houses. The adjournment, however, shall not exceed one month, nor take place more than twice in the same session.

¹ Promulgated in the *Journal officiel* of 28 February 1875. See above, p. 193, note 1.

² These seven articles, concerning the composition of the Senate and of the electoral body which names the senators, were deprived of their constitutional character by Article 3 of the Law of 14 August 1884 and were repealed by Article 9 of the Law of 9 December 1884. See below, pp. 198 and 213, respectively.

³ This text is an almost literal reproduction of Article 15 of the Charter of 1830, which in turn was borrowed from the Charter of 1814 (Articles 17 and 47). The Senate and the Chamber since 1876 have frequently been in disagreement upon the interpretation to be given to Article 8, the former maintaining that no exception for money bills is made to the general principle of the equality of the two houses in the passage of laws, the latter claiming exclusive control of budgetary rights.

⁴ See below, p. 197, note 1.

⁵ Promulgated in the *Journal officiel* of 18 July 1875. See above, p. 193, note 1.

⁶ The third paragraph of this article, repealed by Article 4 of the Law of 14 August 1884, prescribed public prayers on the Sunday following the convening of the houses.

ART. 3. One month at least before the legal expiration of the powers of the President of the Republic, the houses shall be called together in National Assembly to proceed to the election of a new President.

In default of a summons, this meeting shall take place, as of right, the fifteenth day before the expiration of these powers.

In case of the death or resignation of the President of the Republic, the two houses shall assemble immediately, as of right.¹

In case the Chamber of Deputies, in consequence of Article 5 of the Law of 25 February 1875, is dissolved at the time when the Presidency of the Republic becomes vacant, the electoral college shall be convened at once, and the Senate shall assemble as of right.

ART. 4. Every meeting of either of the two houses which shall be held at a time when the other is not in session is *ipso facto* illegal and void,² except in the case provided for in the preceding article, and in case the Senate meets as a court of justice; in the latter case judicial duties alone shall be performed.

ART. 5. The sittings of the Senate and of the Chamber of Deputies shall be public.

Nevertheless either house may meet in secret session, upon the request of a fixed number of its members, determined by the rules.

It shall then decide by absolute majority whether the sitting shall be resumed in public upon the same subject.

ART. 6. The President of the Republic communicates with the houses by messages, which shall be read from the tribune by the minister.

The ministers shall have entrance to both houses, and shall be heard when they request it. They may be assisted, for the discussion of a specific bill, by commissioners named by decree of the President of the Republic.

ART. 7. The President of the Republic shall promulgate the law within the month following the transmission to the government of the law finally passed. He shall promulgate, within three days, laws the promulgation of which shall have been declared urgent by an express vote of each house.⁴

Within the time fixed for promulgation the President of the Republic may, by a message with reasons assigned, request of the two houses a new discussion, which can not be refused.

ART. 8. The President of the Republic shall negotiate and ratify treaties. He shall give information regarding them to the houses as soon as the interests and safety of the State permit.

¹ See Article 7 of the Constitutional Law of 25 February 1875, on p. 194.

² See above, Paragraph 2 of Article 1.

³ The number of members required for such action is 5 for the Senate and 20 for the Chamber.

⁴ A decree of 6 April 1876 governs the formula of promulgation of laws.

Treaties of peace and of commerce, treaties which involve the finances of the State, those relating to the status of the persons and to the right of property of French citizens in foreign countries, shall be ratified only after having been voted by the two houses. No cession, exchange, or annexation of territory shall take place except by virtue of a law.

ART. 9. The President of the Republic shall not declare war without the previous consent of the two houses.

ART. 10. Each house shall be the judge of the eligibility of its members and of the regularity of their election; it alone may receive their resignation.

ART. 11. The bureau¹ of each house shall be elected each year for the entire session, and for every extraordinary session which may be held before the regular session of the following year.

When the two houses meet together as a National Assembly, their bureau shall be composed of the president, vice-presidents and secretaries of the Senate.

ART. 12. The President of the Republic may be impeached only by the Chamber of Deputies and may be tried only by the Senate.

The ministers may be impeached by the Chamber of Deputies for offenses committed in the performance of their duties. In this case they shall be tried by the Senate.

The Senate may be constituted into a court of justice, by a decree of the President of the Republic issued in the Council of Ministers, to try all persons accused of attempts upon the safety of the State.

If proceedings should have been begun in the regular courts, the decree convening the Senate may be issued at any time before the granting of a discharge.

A law shall determine the method of procedure for the accusation, trial and judgment.²

ART. 13. No member of either house shall be prosecuted or held responsible on account of any opinions expressed or votes cast by him in the performance of his duties.³

ART. 14. No member of either house shall, during the session, be prosecuted or arrested for any offense or misdemeanor, unless upon the authority of the house of which he is a member, except in the case of *flagrante delicto*.

The detention or prosecution of a member of either house shall be suspended for the session, and for the entire term of the house, if the chamber requires it.

¹ The bureau of the Senate consists of a president, 4 vice-presidents, 8 secretaries and 3 questors; the bureau of the Chambers of Deputies has the same composition.

² Law of 10 April 1889.

³ Article 41 of the Law of 29 July 1881 on the press develops and completes this provision.

LAW OF 21 JUNE 1879.¹

REVISING ARTICLE 9 OF THE CONSTITUTIONAL LAW OF 25 FEB
1875.

SOLE ARTICLE. Article 9 of the Constitutional Law of 25 Feb
1875 is repealed.²

LAW OF 14 AUGUST 1884.³PARTIALLY REVISING THE CONSTITUTIONAL LAWS.⁴

ARTICLE 1. Paragraph 2 of Article 5 of the Constitutional L
25 February 1875, on the organization of the public pow
amended as follows:

In that case the electoral colleges shall meet for new elections w
months and the Chamber within the 10 days following the close
elections.

ART. 2. To Paragraph 3 of Article 8 of the same law of 25
February 1875 is added the following:

The republican form of government shall not be made the subject
proposed revision.

Members of families that have reigned in France are ineligible
Presidency of the Republic.

ART. 3. Articles 1 to 7 of the Constitutional Law of 24 Feb
1875, on the organization of the Senate, shall no longer have
stitutional character.⁵

ART. 4. Paragraph 3 of Article 1 of the Constitutional Law
July 1875, on the relation of the public powers, is repealed.

ORGANIC LAW OF 2 AUGUST 1875.⁶

ON THE ELECTION OF SENATORS.

ARTICLE 1. A decree of the President of the Republic, issued
least six weeks in advance, shall fix the day for the elections
Senate, and at the same time that for the choice of delegates
municipal councils. There shall be an interval of at least one
between the choice of delegates and the election of senators.

ART. 2. In each municipal council the election of delegates
take place without debate and by secret ballot, by *scrutin d*
and by an absolute majority of votes cast.

¹ Promulgated in the *Journal officiel* of 22 June 1879.

² This article fixed the seat of government at Versailles (see above, p. 194).
of government was removed from Versailles to Paris by a Law of 22 July 1879
below, p. 208).

³ Promulgated in the *Journal officiel* of 15 August 1884.

⁴ The amendments to the constitutional laws have also been inserted in their
places.

⁵ These articles were repealed by way of ordinary legislation on 9 December 1884
below, p. 213).

⁶ Promulgated in the *Journal officiel* of 13 August 1875.

After two ballots a plurality shall be sufficient, and in case of an equality of votes the oldest is elected.

The procedure and method shall be the same for the election of alternates.

Councils having 1, 2 or 3 delegates to choose shall elect 1 alternate.

Those choosing 6 or 9 delegates shall elect 2 alternates.

Those choosing 12 or 15 delegates shall elect 3 alternates.

Those choosing 18 or 21 delegates shall elect 4 alternates.

Those choosing 24 delegates shall elect 5 alternates.

The municipal council of Paris shall elect 8 alternates.

The alternates shall take the place of delegates in case of refusal or inability to serve, in the order determined by the number of votes received by each of them.

The choice of the municipal councils shall not extend to a deputy, a general councilor or an arrondissement councilor.

All communal electors, including the municipal councilors, shall be eligible without distinction.¹

ART. 3. In communes where the duties of the municipal council are performed by a special delegation organized by virtue of Article 44 of the Law of 5 April 1884, the senatorial delegates and alternates shall be chosen by the former council.²

ART. 4. If the delegates were not present at the election, notice shall be given them by the mayor within 24 hours. They shall, within 5 days, notify the prefect of their acceptance. In case of refusal or silence, they shall be replaced by the alternates, who shall then be placed upon the list as the delegates of the commune.²

ART. 5. The official report of the election of delegates and alternates shall be transmitted at once to the prefect; it shall state the acceptance or refusal of the delegates and alternates, as well as the protests raised, by one or more members of the municipal council, against the legality of the election. A copy of this official report shall be posted on the door of the town hall.²

ART. 6. A statement of the results of the election of delegates and alternates shall be drawn up within a week by the prefect; this statement shall be given to all requesting it, and may be copied and published.

Every elector may, at the bureau of the prefecture, obtain information and a copy of the list, by communes, of the municipal councilors of the department, and, at the bureaus of the subprefectures, information and a copy of the list, by communes, of the municipal councilors of the arrondissement.

¹ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212). The original text provided that each municipal council elect one delegate and one alternate.

² As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212). The amendments of Articles 4 and 5 merely substitute "delegates" and "alternates" for "delegate" and "alternate."

ART. 7. Every communal elector may, within the next three days address directly to the prefect a protest against the regularity of the election.

If the prefect deems the proceedings irregular, he may request that they be set aside.

ART. 8. Protests concerning the election of delegates or of alternates shall be decided, subject to an appeal to the Council of State by the council of the prefecture, and, in the colonies, by the municipal council.

Delegates whose election is annulled because they do not fulfil some one of the conditions demanded by law, or on account of informality, shall be replaced by the alternates.

In case the election of a delegate and of an alternate is annulled or in the case of the refusal or death of both of them after their acceptance, new elections shall be held by the municipal council on a day fixed by an order of the prefect.¹

ART. 9. One week, at the latest, before the election of senators, the prefect, and, in the colonies, the director of the interior, shall arrange the list of the electors of the department in alphabetical order. The list shall be communicated to all who request it, and may be copied and published. No elector shall have more than one vote.

ART. 10. The deputies, the members of the general council, or of the arrondissement councils, whose elections have been announced by the returning committees, but whose powers have not been verified shall be enrolled upon the list of electors and shall take part in the voting.

ART. 11. In each of the three departments of Algeria the electoral college shall be composed:

1. Of the deputies.
2. Of the members of the general councils, of French citizenship.
3. Of delegates elected by the French members of each municipal council from among the communal electors of French citizenship.

ART. 12. The electoral college shall be presided over by the president of the civil tribunal of the seat of government of the department or colony. In the Department of Ardennes it shall be presided over by the president of the tribunal of Charleville.²

The president shall be assisted by the two oldest and the two youngest electors present at the opening of the meeting. The bureau thus constituted shall choose a secretary from among the electors.

If the president is prevented from presiding, his place shall be taken by the vice-president [of the civil tribunal], and, in his absence, by the oldest judge.

¹ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212). This amendment to this article merely substitutes "delegates" and "alternates" for "delegate" and "alternate."

² This sentence was added by the Law of 1 February 1898.

ART. 13. The bureau shall divide the electors in alphabetical order into sections of at least 100 voters each. It shall appoint the president and inspectors of each of these sections. It shall decide all questions and contests which may arise in the course of the election, without power, however, to depart from the decisions rendered by virtue of Article 8 of the present law.

ART. 14. The first ballot shall begin at 8 o'clock in the morning and close at noon. The second shall begin at 2 o'clock and close at 5 o'clock. The third shall begin at 7 o'clock and close at 10 o'clock. The results of the ballotings shall be canvassed by the bureau and announced immediately by the president of the electoral college.¹

ART. 15. No one shall be elected senator on either of the first two ballots unless he receives (1) an absolute majority of the votes cast and (2) a number of votes equal to one-fourth of the total number of electors registered. On the third ballot a plurality shall be sufficient, and, in case of an equality of votes, the oldest is elected.

ART. 16. Political meetings for the nomination of senators may be held from the date of the promulgation of the decree summoning the electors up to the day of the election, inclusive.

The declaration prescribed by Article 2 of the Law of 30 June 1881² shall be made by two voters at least.

The forms and regulations of this article, as well as those of Article 3, shall be observed.

The members of Parliament elected or electors in the department, the senatorial electors, delegates and alternates, and the candidates or their representatives may alone be present at these meetings.

The municipal authorities shall see to it that no other person is admitted.

Delegates and alternates shall present as a means of identification a certificate from the mayor of the commune; candidates or their representatives, a certificate from the official who shall have received the declaration mentioned in Paragraph 2.³

ART. 17. Delegates who take part in all the ballotings shall, if they demand it, receive from the State, upon the presentation of their letter of summons, countersigned by the president of the electoral college, a remuneration for traveling expenses, which shall be paid to them upon the same basis and in the same manner as that given to jurors by Articles 35, 90 and following of the decree of 18 June 1811.

A public administrative regulation shall determine the manner of fixing the amount and the method of payment of this remuneration.⁴

¹ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 212).

² Law on the freedom of assembly. The Law of 28 March 1907 concerning public meetings suppressed the formality of a previous declaration.

³ As amended by Article 8 of the Law of 9 December 1884 (see below, p. 218).

⁴ Decree of 26 December 1875.

ART. 18. Every delegate who, without lawful reason, shall not take part in all the ballotings, or, having been hindered, shall not have given notice to the alternate in sufficient time, shall, upon the demand of the public prosecutor, be fined 50 francs by the civil tribunal of the seat of government.

The same penalty may be imposed upon the alternate who, after having been notified by letter, telegram, or notice personally delivered in due time, shall not have taken part in the election.

ART. 19. Every attempt at corruption or constraint by the employment of means enumerated in Articles 177 and following of the Penal Code, to influence the vote of an elector or to keep him from voting shall be punished by imprisonment of from three months to two years and by a fine of from 50 to 500 francs, or by either of these penalties.

Article 463 of the Penal Code is applicable to the penalties provided by the present article.¹

ART. 20. There is incompatibility between the functions of senators and those:

Of councilor of State and maître des requêtes, prefect and subprefect, except the prefect of the Seine and the prefect of police.

Of member of the courts of appeal² and of tribunals of first instance, except the public prosecutor before the court of Paris.

Of paymaster general, of special receiver, of official and employee of the central administration of the ministries.³

ART. 21. No one of the following officers shall be elected by the department or the colony included wholly or partially in his jurisdiction during the exercise of his duties or during the six months following the cessation of his duties by resignation, dismissal, change of residence or other cause:

1. The first presidents, presidents and members of the courts of appeal.

2. The presidents, vice-presidents, examining magistrates and members of the tribunals of first instance.

3. The prefect of police, prefects and subprefects and secretaries general of prefectures; the governors, directors of the interior and secretaries general of the colonies.

4. The engineers in chief and of the arrondissement and road surveyors in chief and of the arrondissement.

5. The rectors and inspectors of academies.

¹ As amended by Article 8 of the Law of 9 December 1884 (see p. 213).

² France is divided into 26 judicial districts, in each of which there is a court of appeal. There are similar courts in Algeria and the colonies. The Court of Cassation is the supreme court of appeal for all France, Algeria and the colonies.

³ This article was implicitly repealed by the Law of 26 December 1887 (see below p. 214). By Article 3 of the Law of 16 November 1897, the governor and undergovernors of the Bank of France are ineligible as deputies or senators.

6. The inspectors of primary schools.
7. The archbishops, bishops and vicars general.¹
8. The officers of all grades of the land and naval forces.
9. The division commissaries and the military deputy commissaries.
10. The paymasters general and special receivers of money.
11. The superintendents of direct and indirect taxes, of registration and of public property, and of posts.
12. The commissioners and inspectors of forests.

ART. 22. A senator elected in several departments shall make known his choice to the president of the Senate within 10 days following the verification of the elections. If a choice is not made in this time, the question shall be settled by lot in open session.

The vacancy shall be filled within one month and by the same electoral body.

The same holds true in case of an invalidated election.

ART. 23. Vacancies caused by the death or resignation of senators shall be filled within three months; however, if the vacancy occurs within six months preceding the triennial elections, it shall not be filled until those elections.²

ARTS. 24-25.³

ART. 26. Members of the Senate shall receive the same salaries as members of the Chamber of Deputies.⁴

ART. 27. All provisions of the electoral law relating to the following matters are applicable to elections of senators:

1. To cases of unworthiness and incapacity.
2. To offenses, prosecutions and penalties.
3. To election proceedings, in all matters not contrary to the provisions of the present law.

ARTS. 28-29.⁵

ORGANIC LAW OF 30 NOVEMBER 1875.⁶

ON THE ELECTION OF DEPUTIES.

ARTICLE 1. The deputies shall be chosen by the voters registered:

1. Upon the lists drawn up in accordance with the Law of 7 July 1874.

¹This clause was implicitly repealed by Article 2 of the Law of 9 December 1905 on the separation of Church and State.

²As amended by Article 8 of the Law of 9 December 1884 (see below, p. 213).

³Articles 24 and 25 were repealed by Article 9 of the Law of 9 December 1884.

⁴See Article 17 of the Organic Law of 30 November 1875, p. 207 below.

⁵Articles 28 and 29 of this law contained transitory provisions.

⁶Promulgated in the *Journal officiel* of 31 November 1875. This law has been amended or supplemented by the Laws of 16 June 1885, 13 February 1889 and 17 July 1889 (see below, pp. 213, 214 and 215, respectively).

2. Upon the supplementary list including those who have lived in the commune six months.¹

Registration upon the supplementary list shall take place conformably to the laws and regulations now governing the political electoral lists, by the committees and according to the forms established by Articles 1, 2 and 3 of the Law of 7 July 1874.

Appeals relating to the formation and revision of either list shall be brought directly before the Civil Chamber of the Court of Cassation.²

ART. 2. The soldiers of all ranks and grades, of both land and naval forces, shall not take part in any vote when they are with their regiment, at their post, or on duty. Those who, on election day, are in private residence, on the non-active list or in possession of a regular leave of absence, may vote in the commune on the lists of which they are duly registered. This last provision shall apply equally to officers on the unattached list or on the reserve list.³

ART. 3. During the electoral period, circulars and platforms signed by the candidates, electoral placards and manifestoes signed by one or more voters, may, after being deposited with the public prosecutor, be posted and distributed without previous authorization.

The distribution of ballots shall not be subject to the formality of deposit.⁴

Every public or municipal officer is forbidden to distribute ballots platforms or circulars of candidates.

The provisions of Article 19 of the Organic Law of 2 August 1875⁵ on the election of senators shall apply to the election of deputies.

ART. 4. The balloting shall last one day only. The voting shall occur in the chief town of the commune; each commune may nevertheless be divided, by order of the prefect, into as many sections as local circumstances and the number of voters may require. The second ballot shall take place on the second Sunday following the announcement of the first ballot, in accordance with the provision of Article 65 of the Law of 15 March 1849.

ART. 5. The voting shall take place in accordance with the provisions of the organic and regulating decrees of 2 February 1856.

The ballot shall be secret.

¹ There is now only a single list, common to the political and municipal elections since municipal electors are subject to only six months residence (Article 14 of the Law of 5 April 1884).

² Here follows a transitory provision, concerning the electoral lists of 1875, omitted here.

³ See Article 9 of the Law of 21 March 1905.

⁴ The Law of 20 December 1878 dispensed with the formality of deposit of ballots in all elections. The printer was dispensed from the deposit of these ballots by the Law of 27 July 1881.

⁵ See above, p. 202.

The voting lists used at the elections in each section, signed by the president and secretary, shall remain deposited for one week at the secretary's office at the town hall, where they shall be communicated to every voter requesting them.

ART. 6. Every voter shall be eligible, without any property qualification, at the age of 25 years.¹

ART. 7. No soldier or sailor in active service on land or sea may, whatever his rank or position, be elected a member of the Chamber of Deputies.

This provision applies to soldiers and sailors on the unattached list or the inactive list, but does not extend to officers of the second section of the list of the general staff, nor to those who, kept in the first section for having been commander-in-chief in the field, have ceased to be actively employed, nor to officers who, having gained the right to retire, are sent to or kept at their homes while awaiting the settlement of their pension.

The decision by which the officer shall have been permitted to establish his rights on the retired list shall become, in this case, irrevocable.

The rule laid down in the first paragraph of the present article shall not apply to the reserve of the active army or to the territorial army.

ART. 8. The exercise of public duties paid for out of the treasury of the State is incompatible with the office of deputy.²

Consequently every official elected shall be superseded in his duties if, within one week following the verification of his powers, he has not signified that he does not accept the office of deputy.

There are excepted from the preceding provisions the duties of minister, undersecretary of State, ambassador, minister plenipotentiary, prefect of the Seine, prefect of police, first president of the Court of Cassation, first president of the Court of Accounts, first president of the Court of Appeal of Paris, attorney general of the Court of Cassation, attorney general of the Court of Accounts, attorney general of the Court of Appeal of Paris, archbishop and bishop, consistorial presiding pastor in consistorial districts the seat of government of which has two or more pastors, chief rabbi of the central consistory, chief rabbi of the consistory of Paris.³

¹ Exceptions to eligibility are to be found in the Laws of 16 June 1885, 22 June 1886, 17 July 1889 (see below, p. 215), 20 July 1895 and 21 March 1905.

² To these must be added the duties of administrator of concessionary companies of maritime postal service (Law of 28 June 1883, Article 10), administrators of railways (Law of 20 November 1883, Article 5) and governor and undergovernor of the Bank of France (Law of 17 November 1897, Article 3).

³ These religious officials were made ineligible for 8 years by Article 40 of the Law of 9 December 1905 on the separation of Church and State.

ART. 9. There are also excepted from the provisions of Article 8

1. Titular professors of chairs which are filled by competition or upon the nomination of the bodies where the vacancy occurs.

2. Persons who have been charged with a temporary mission. All missions continuing more than six months cease to be temporary and are governed by Article 8 above.¹

ART. 10. The officer preserves the rights which he has acquired to a retiring pension, and may, after the expiration of his mandate, be restored to active service.

The civil officer who, having had 20 years of service at the date of the acceptance of the mandate of deputy, shall be 50 years of age at the time of the expiration of his mandate, may establish his right to an exceptional retiring pension.

This pension shall be regulated according to the third paragraph of Article 12 of the Law of 9 June 1853.²

If the officer is restored to active service after the expiration of his mandate, the provisions of Article 3, Paragraph 2, and Article 2 of the Law of 9 June 1853 shall apply to him.

In duties where the rank is distinct from the employment, the officer, by the acceptance of the mandate of deputy, loses the employment and preserves the rank only.

ART. 11. Every deputy appointed or promoted to a salaried public position shall cease to belong to the Chamber by the very fact of his acceptance; but he may be reelected, if the office which he occupies is compatible with the mandate of deputy.

Deputies who become ministers or undersecretaries of State shall not be required to seek reelection.

ART. 12. The following officers shall not be elected by the arrondissement or the colony included wholly or partially in their jurisdiction, during the exercise of their duties or for six months following the cessation of their duties, because of resignation, dismissal, change of residence or any other cause:

1. The first presidents, presidents and members of the courts of appeal.

2. The presidents, vice-presidents, titular judges, examining magistrates and members of the tribunals of first instance, as well as titular justices of the peace.³

¹ See Law of 26 December 1887.

² The Law of 20 March 1897 added that, for officials subject (as concerns the pension) to the Law of 22 August 1790, this pension shall be regulated at the rate of one-thirtieth (per year of service) of the pension which would have been settled on them for 30 years of service. The same law also makes these provisions applicable to the case provided for by the second paragraph of the sole article of the Law of 26 December 1887.

³ The Law of 30 March 1902 added the phrase "as well as titular justices of the peace."

3. The prefect of police, the prefects and secretaries general of prefectures; the governors, directors of the interior and secretaries general of the colonies.

4. The engineers in chief and of the arrondissement and road surveyors in chief and of the arrondissement.

5. The rectors and inspectors of academies.

6. The inspectors of primary schools.

7. The archbishops, bishops and vicars general.¹

8. The paymasters general and special receivers of money.

9. The superintendents of direct and indirect taxes, of registration and of public property, and of posts.

10. The commissioners and inspectors of forests.

The subprefects and councilors of the prefecture² shall not be elected in any of the arrondissements of the department in which they perform their duties.

ART. 13. Every attempt to bind deputies by instructions is null and void.

ART. 14.³

ART. 15. Deputies shall be chosen for four years.

The Chamber shall be renewed integrally.

ART. 16. In case of vacancy by death, resignation or otherwise, a new election shall be held within three months of the date when the vacancy occurred.⁴

In case of option,⁵ the vacancy shall be filled within one month.

ART. 17. Deputies shall receive an indemnity.

The legislative indemnity is fixed at fifteen thousand (15,000) francs⁶ per year, beginning with 1 January 1907. It is regulated by the second paragraph of Article 96 and by Article 97 of the Law of 15 March 1849, as well as by the provisions of the Law of 16 February 1872.

ART. 18. No one shall be elected on the first ballot unless he receives:

1. An absolute majority of the votes cast.

2. A number of votes equal to one-fourth of the number of voters registered.

¹ Implicitly repealed by Article 40 of the Law of 9 December 1905 on the separation of Church and State.

² The Law of 30 March 1902 added the phrase "and councilors of the prefecture."

³ This article was repealed by the Law of 16 June 1885 (see below, p. 213), which established the ballot by ticket (*scrutin de liste*) in place of the separate ballot (*scrutin individuel*) or system of single districts, but was reenacted almost word for word by the Law of 13 February 1889, Article 2 (see below, p. 214).

⁴ See Article 7 of the Law of 16 June 1885, p. 214 below.

⁵ I. e., when a deputy has been elected from two or more districts, and decides which one he will serve.

⁶ As amended by the Law of 23 November 1906; before the passage of this law deputies and senators received 9,000 francs per year. The Law of 16 February 1872 prohibits the adding of the indemnity to State salaries (plurality of offices). Article 96 of the Law of 15 March 1849 treats of the same subject. Article 97 permits the seizure of the entire indemnity.

On the second ballot a plurality is sufficient. In case of an equality of votes, the oldest is elected.¹

ART. 19.²

ART. 20. The voters living in Algeria in a place not yet made a commune shall be registered on the electoral list of the nearest commune.

When it is necessary to establish electoral districts, either for the purpose of grouping mixed communes in each of which the number of voters is insufficient, or to bring together voters living in places not formed into communes, the decrees for fixing the seat of these districts shall be issued by the governor general, upon the report of the prefect or of the general commanding the division.

ART. 21.³

ART. 22. Every violation of the prohibitive provisions of Article 3, Paragraph 3, of the present law shall be punished by a fine of from 16 francs to 300 francs. Nevertheless the criminal courts may apply Article 463 of the Penal Code.

The provisions of Article 6 of the Law of 7 July 1874 shall apply to the political electoral lists.⁴

The Decree of 29 January 1871 and the Laws of 10 April 1871, 2 May 1871 and 18 February 1873 are repealed.

Paragraph 11 of Article 15 of the Organic Decree of 2 February 1852 is also repealed, in so far as it refers to the Law of 21 May 1836 on lotteries, reserving, however, to the courts the right to apply Article 42 of the Penal Code to convicted persons.

The provisions of the laws and decrees now in force, not in conflict with the present law, shall continue to be applied.

ART. 23. The provision of Article 12 of the present law by which an interval of six months must elapse between the cessation of duties and election shall not apply to officials other than prefects and subprefects, whose duties shall have ceased either before the promulgation of the present law or within 20 days thereafter.

LAW OF 22 JULY 1879.⁵

ON THE SEAT OF THE EXECUTIVE POWER AND OF THE TWO HOUSES AT PARIS.

ARTICLE 1. The seat of the executive power and of the two houses shall be at Paris.

¹ This article should be considered as implicitly repealed by Article 5 of the Law of 16 June 1885 which repeats the terms of this article almost word for word.

² This article, concerning the representation of Algeria, was implicitly repealed by Article 3 of the Law of 13 February 1889 (see below, p. 214).

³ This article, concerning the representation of the colonies, was implicitly repealed by Article 3 of the Law of 13 February 1889 (see below, p. 214).

⁴ The Law of 7 July 1874 concerns the municipal electorate. Article 6 of that law punishes fraudulent registrations on the electoral lists.

⁵ Promulgated in the *Journal officiel* of 23 July 1879.

ART. 2. The Palace of the Luxemburg and the Palais-Bourbon are assigned, the first to the use of the Senate and the second to that of the Chamber of Deputies.

Nevertheless each of the houses is authorized to choose, in the city of Paris, the palace which it wishes to occupy.

ART. 3. The various parts of the palace of Versailles now occupied by the Senate and the Chamber of Deputies shall preserve their arrangements.

Whenever, according to Articles 7 and 8 of the Law of 25 February 1875 on the organization of the public powers, a meeting of the National Assembly takes place, it shall sit at Versailles, in the present hall of the Chamber of Deputies.

Whenever, according to Article 9 of the Law of 24 February 1875 on the organization of the Senate, and Article 12 of the Constitutional Law of 16 July 1875 on the relations of the public powers, the Senate shall be called upon to constitute itself a court of justice, it shall indicate the town and place where it proposes to sit.

ART. 4. The Senate and Chamber of Deputies shall sit at Paris on and after 3 November next.

ART. 5. The presidents of the Senate and of the Chamber of Deputies are charged with the duty of securing the internal and external safety of the houses over which they preside.

For this purpose they shall have the right to call upon the armed forces and upon all the authorities whose assistance they consider necessary.

Such requisitions may be addressed directly to all officers, commanders or officials, who are bound to obey immediately, under the penalties established by the laws.

The presidents of the Senate and of the Chamber of Deputies may delegate to the questors or to one of them their right of demanding aid.

ART. 6. Every petition to either of the houses shall be made and presented only in writing. It is forbidden to present them in person at the bar.

ART. 7. Every violation of the preceding article, every provocation, or public speeches, by writings or printed matter, posted or distributed, to a crowd upon the public ways, having for its object the discussion, drawing up or carrying to the houses or to one of them, of petitions, declarations or addresses, shall be punished by the penalties enumerated in Paragraph 1 of Article 5 of the Law of June 1848, whether or not any results follow from such actions.

ART. 8. The preceding provisions do not diminish the force of the Law of 7 June 1848 on riotous assemblies.

ART. 9. Article 463 of the Penal Code is applicable to the offenses mentioned in the present law.

LAW OF 9 DECEMBER 1884.¹AMENDING THE ORGANIC LAWS ON THE ORGANIZATION OF THE SENATE
AND THE ELECTION OF SENATORS.

ARTICLE 1. The Senate shall be composed of 300 members, elected by the departments and the colonies.

The present members, without any distinction between senators elected by the National Assembly or by the Senate and those elected by the departments and colonies, shall retain their offices during the time for which they have been chosen.

ART. 2. The Department of the Seine shall elect 10 senators.

The Department of the Nord shall elect 8 senators.

The departments of Côtes-du-Nord, Finistère, Gironde, Ile-et-Vilaine, Loire, Loire-Inférieure, Pas-de-Calais, Rhône, Saône-et-Loire and Seine-Inférieure shall elect 5 senators each.

Aisne, Bouches-de-Rhône, Charente-Inférieure, Dordogne, Haute-Garonne, Isère, Maine-et-Loire, Manche, Morbihan, Puy-de-Dôme, Seine-et-Oise and Somme shall elect 4 senators each.

Ain, Allier, Ardèche, Ardennes, Aube, Aude, Aveyron, Calvados, Charente, Cher, Corrèze, Corse, Côte-d'Or, Creuse, Doubs, Drôme, Eure, Eure-et-Loir, Gard, Gers, Hérault, Indre, Indre-et-Loire, Jura, Landes, Loir-et-Cher, Haute-Loire, Loiret, Lot, Lot-et-Garonne, Marne, Haute-Marne, Mayenne, Meurthe-et-Moselle, Meuse, Nièvre, Oise, Orne, Basses-Pyrénées, Haute-Saône, Sarthe, Savoie, Haute-Savoie, Seine-et-Marne, Deux-Sèvres, Tarn, Var, Vendée, Vienne, Haute-Vienne, Vosges and Yonne shall elect 3 senators each.

Basses-Alpes, Hautes-Alpes, Alpes-Maritimes, Ariège, Cantal, Lozère, Hautes-Pyrénées, Pyrénées-Orientales, Tarn-et-Garonne and Vaucluse shall elect 2 senators each.

The territory of Belfort, the three departments of Algeria, the four colonies of Martinique, of Guadeloupe, of Réunion and of the French Indies shall elect 1 senator each.²

ART. 3. In the departments where the number of senators is increased by the present law, the increase shall take effect as vacancies occur among the irremovable senators.

For this purpose, within a week after the vacancy occurs, it shall be determined by lot in public session what department shall be called upon to elect a senator.

This election shall take place within three months of the determination by lot. However, if the vacancy occurs within six months preceding the triennial election, the vacancy shall not be filled until that election.

¹ Promulgated in the *Journal officiel* of 10 December 1884.

² This redistribution was not effective until after the death of the last irremovable senator (see Article 3 of this law).

The mandate thus conferred shall expire at the same time as that of the other senators belonging to the same department.

ART. 4. No one shall be a senator unless he is a French citizen at least 40 years of age and in the enjoyment of civil and political rights.¹

Members of families that have reigned in France are ineligible to the Senate.

ART. 5. The soldiers of the land and naval forces shall not be elected senators.

There are excepted from this provision :

1. The marshals of France and admirals.
2. The general officers maintained without limit of age in the first section of the list of the general staff and not provided with a command.
3. The general officers placed in the second section of the list of the general staff.
4. Members of the land and naval forces who belong either to the reserve of the active army or to the territorial army.

ART. 6. Senators shall be elected by *scrutin de liste*, by a college meeting at the capital of the department or of the colony and composed :

1. Of the deputies.
2. Of the general councilors.
3. Of the councilors of the arrondissement.
4. Of delegates elected from among the voters of the commune by each municipal council.

Councils composed of 10 members shall elect 1 delegate.

Councils composed of 12 members shall elect 2 delegates.

Councils composed of 16 members shall elect 3 delegates.

Councils composed of 21 members shall elect 6 delegates.

Councils composed of 23 members shall elect 9 delegates.

Councils composed of 27 members shall elect 12 delegates.

Councils composed of 30 members shall elect 15 delegates.

Councils composed of 32 members shall elect 18 delegates.

Councils composed of 34 members shall elect 21 delegates.

Councils composed of 36 members or more shall elect 24 delegates.

The municipal council of Paris shall elect 30 delegates.

In the French Indies the members of the local councils shall take the place of councilors of the arrondissement. The municipal council of Pondichéry shall elect 5 delegates. The municipal council of Karikal shall elect 3 delegates. All of the other communes shall elect 2 delegates each.²

¹ By the Law of 20 July 1895 no one may become a member of either house unless he has complied with the law regarding military service.

² As amended by the Law of 17 December 1908, which repealed a last paragraph worded as follows: "The balloting shall take place at the seat of government of each district."

ART 7. Members of the Senate shall be elected for 9 years.

The Senate shall be renewed every 3 years according to the order of the present series of departments and colonies.

ART. 8. Articles 2 (Paragraphs 1 and 2), 3, 4, 5, 8, 14, 16, 19 and 23 of the Organic Law of 2 August 1875 on the elections of senators are amended as follows:

ARTICLE 2 (Paragraphs 1 and 2). In each municipal council the election of delegates shall take place without debate and by secret ballot, by *scrutin de liste* and by an absolute majority of votes cast.

After two ballots a plurality shall be sufficient, and in case of an equality of votes the oldest is elected.

The procedure and method shall be the same for the election of alternates. Councils having 1, 2 or 3 delegates to choose shall elect 1 alternate.

Those choosing 6 or 9 delegates shall elect 2 alternates.

Those choosing 12 or 15 delegates shall elect 3 alternates.

Those choosing 18 or 21 delegates shall elect 4 alternates.

Those choosing 24 delegates shall elect 5 alternates.

The municipal council of Paris shall elect 8 alternates.

The alternates shall take the place of delegates in case of refusal or inability to serve, in the order determined by the number of votes received by each of them.

ART. 3. In communes where the duties of the municipal council are performed by a special delegation organized by virtue of Article 44 of the Law of 5 April 1884, the senatorial delegates and alternates shall be chosen by the former council.

ART. 4. If the delegates were not present at the election, notice shall be given them by the mayor within 24 hours. They shall, within 5 days, notify the prefect of their acceptance. In case of refusal or silence, they shall be replaced by the alternates, who shall then be placed upon the list as the delegates of the commune.

ART. 5. The official report of the election of delegates and alternates shall be transmitted at once to the prefect. It shall state the acceptance or refusal of the delegates and alternates, as well as the protests raised, by one or more members of the municipal council, against the legality of the election. A copy of this official report shall be posted on the door of the town hall.

ART. 8. Protests concerning the election of delegates or of alternates shall be decided, subject to an appeal to the Council of State, by the council of the prefecture, and, in the colonies, by the privy council.

Delegates whose election is annulled because they do not fulfill some one of the conditions demanded by law, or because of informality, shall be replaced by the alternates.

In case the election of a delegate and of an alternate is annulled, or in the case of the refusal or death of both of them after their acceptance, new elections shall be held by the municipal council on a day fixed by an order of the prefect.

ART. 14. The first ballot shall begin at 8 o'clock in the morning and close at noon. The second shall begin at 2 o'clock and close at 5 o'clock. The third shall begin at 7 o'clock and close at 10 o'clock. The results of the ballots shall be canvassed by the bureau and announced immediately by the president of the electoral college.

ART. 16. Political meetings for the nomination of senators may be held on the date of the promulgation of the decree summoning the electors up to the day of the election, inclusive.

The declaration prescribed by Article 2 of the Law of 30 June 1881¹ shall be made by two voters at least.

The forms and regulations of this article, as well as those of Article 3, shall be observed.

The members of Parliament elected or electors in the department, the electoral electors, delegates and alternates, and the candidates or their representatives may alone be present at these meetings.

The municipal authorities shall see to it that no other person is admitted. Delegates and alternates shall present as a means of identification a certificate from the mayor of the commune; candidates or their representatives, a certificate from the official who shall have received the declaration mentioned in Paragraph 2.

ART. 19. Every attempt at corruption or constraint by the employment of means enumerated in Articles 177 and following of the Penal Code, to influence the vote of an elector or to keep him from voting, shall be punished by imprisonment of from three months to two years and by a fine of from 50 to 500 francs, or by either of these penalties.

Article 463 of the Penal Code is applicable to the penalties provided by the present article.

ART. 23. Vacancies caused by the death or resignation of senators shall be filled within three months; however, if the vacancy occurs within six months preceding the triennial elections, it shall not be filled until those elections.

ART. 9. The following are repealed:

1. Articles 1-7 of the Law of 24 February 1875 on the organization of the Senate.

2. Articles 24 and 25 of the Law of 2 August 1875 on the elections of senators.²

LAW OF 16 JUNE 1885.³

AMENDING THE ELECTORAL LAW.

ARTICLES 1-3.⁴

ART. 4. Members of families that have reigned in France are ineligible to the Chamber of Deputies.⁵

ART. 5. No one shall be elected on the first ballot unless he satisfies:

1. An absolute majority of the votes cast.

2. A number of votes equal to one-fourth of the total number of voters registered.

¹ See above, p. 201, note 2.

The transitory provisions of this law are omitted, because they are practically abrogated in the Law of 26 December 1887 on parliamentary incompatibilities (see above, p. 214).

Promulgated in the *Journal officiel* of 17 June 1885.

Articles 1, 2 and 3 of this law were repealed by the Law of 13 February 1899 (see above, p. 214).

For similar provisions regarding the Presidency of the Republic and the Senate, Article 2 of the Law of 14 August 1884 and Article 4 of the Law of 9 December 1884 (see above, pp. 198, 211). Article 4 of the Law of 22 June 1886 prohibited every elective office to the members of families that have reigned in France.

On the second ballot a plurality shall be sufficient.

In case of an equality of votes, the oldest of the candidates elected.

ART. 6. Subject to the case of a dissolution provided for and regulated by the Constitution, the general elections shall take place within the 60 days preceding the expiration of the powers of the Chamber of Deputies.

ART. 7. Vacancies which occur in the six months preceding renewal of the Chamber shall not be filled.

LAW OF 26 DECEMBER 1887.¹

ON PARLIAMENTARY INCOMPATIBILITIES.

Until the passage of a special law on parliamentary incompatibilities, Articles 8 and 9 of the Law of 30 November 1875 shall be applicable to senatorial elections.²

Every officer affected by this provision who has had 20 years service and is 50 years of age at the time of his acceptance of the office of senator, may establish his rights to a proportional retiring pension, which shall be governed by the third paragraph of Article 12 of the Law of 9 June 1853.

LAW OF 13 FEBRUARY 1889.³

REESTABLISHING SINGLE DISTRICTS FOR THE ELECTION OF DEPUTIES.

ARTICLE 1. Articles 1, 2 and 3 of the Law of 16 June 1885 are repealed.

ART. 2. Members of the Chamber of Deputies shall be elected in single districts. Each administrative arrondissement in the departments, and each municipal arrondissement at Paris and at Lyons, shall elect one deputy. Arrondissements the population of which exceeds 100,000 inhabitants shall elect an additional deputy for every 100,000 or fraction of 100,000 inhabitants. Arrondissements in such case shall be divided into districts, a table⁴ of which is annexed to the present law and shall only be changed by law.

ART. 3. One deputy is assigned to the territory of Belfort, 6 to Algeria and 10 to the colonies, as is indicated by the table.

ART. 4. On and after the promulgation of the present law, until the renewal of the Chamber of Deputies, vacancies occurring in the Chamber of Deputies shall not be filled.

¹ Promulgated in the *Journal officiel* of 28 December 1887.

² See this law, p. 203 above; see also Article 20 of the Law of 2 August 1875, p. 203 above.

³ Promulgated in the *Journal officiel* of 14 February 1889.

⁴ This table is omitted. It may be found in the *Journal officiel* of 14 February 1889. It has been modified by the Laws of 22 July 1893, 6 April 1898, 30 March 1902 and 27 March 1914.

LAW OF 17 JULY 1889.¹

ON MULTIPLE CANDIDATURES.

ARTICLE 1. No one shall be a candidate in more than one district.

ARTS. 2-6.²

¹ Promulgated in the *Journal officiel* of 18 July 1889.

² Formalities imposed upon candidates and penalties for their violation.

GERMANY.

From the dissolution of the Holy Roman Empire in 1806 to the unification of the German Empire in 1871 the constitutional history of Germany may be divided into three distinct periods: (1) the predominance of France (Confederation of the Rhine); (2) the predominance of Austria (German Confederation); and (3) the predominance of Prussia (North German Confederation).

The Confederation of the Rhine, established in July 1806, included virtually all of the German States except Austria and Prussia. After the fall of Napoleon it was replaced by the German Confederation. The Confederation Act of 8 June 1815¹ was amended by the

Final Act of 15 May 1820,² which united the States for the promotion of liberal principles. Until the revolution of 1848 the sentiment for German unity was confined largely to liberal theorists. The revolution forced the governments to act. A German National Assembly met on 18 May 1848 and eventually adopted the Imperial Constitution of 28 March 1849. But by this time the liberal movement had begun to lose force. Austria had gained the victory over revolutionary forces within its borders and firmly opposed any change which would give to Prussia the leadership of a united Germany. The German Confederation was reestablished and continued until Austria was expelled from Germany by force of arms.

The Schleswig-Holstein affair led to an open conflict between Prussia and Austria in 1866. In the war which followed, Austria and its allies among the small States were signally defeated, and, by the Peace of Prague of 23 August 1866,³ Austria gave its "consent to a new organization of Germany without the participation of the German Empire." The relations of the South German States to the Confederation of the North German States, which had been established on 10 June 1866, were to be established by future negotiation. With the adhesion of the four South German States to the Confederation, the latter became the German Empire.

The treaties with the South German States which had been concluded into the Constitution of the North German Confederation

¹ English translation in EDWARD HERTSLET, *Map of Europe by Treaty*, vol. I (London, 1906), pp. 200-207. German text and French translation in parallel columns in the *United Kingdom Foreign State Papers*, 2: pp. 114-136.

² English translation in HERTSLET, *op. cit.*, pp. 636-657. French translation in the *United Kingdom Foreign State Papers*, 7: pp. 399-414.

³ English translation in HERTSLET, *op. cit.*, vol. III (London, 1875), pp. 1720-1726, and *British and Foreign State Papers*, 56: pp. 1050-1054.

and therefore the Constitution of the Empire was now contained in the following four documents:

1. The Constitution of the North German Confederation of 16 April–14 June 1867.¹

2. The Protocol of 15 November 1870² between the North German Confederation, Baden and Hesse.

3. The Treaty of 25 November 1870³ between the North German Confederation, Baden and Hesse on the one side and Württemberg on the other.

4. The Treaty of 23 November 1870⁴ concerning the adhesion of Bavaria to the North German Confederation.

The Imperial Constitution of 16 April 1871 was practically a consolidation of the permanent provisions of these four instruments. This Constitution has been amended 10 times since 1871, and in the text given below not only have these formal amendments been inserted in their proper places, but also many other important changes which the Constitution has undergone by means of addition of territory, interpretation in practice, and of ordinary legislation have been indicated in the footnotes.⁵

CONSTITUTION OF 16 APRIL 1871.⁶

[PREAMBLE.]

His Majesty the King of Prussia, in the name of the North German Confederation, His Majesty the King of Bavaria, His Majesty the King of Württemberg, His Royal Highness the Grand Duke of Baden, and His Royal Highness the Grand Duke of Hesse and Rhenish Hesse for those parts of the Grand Duchy of Hesse lying south of the Main, conclude an eternal Confederation for the protection of the federal territory, and of the rights of the same as well as for the promotion of the welfare of the German people. This Confederation shall bear the name of the German Empire, and shall have the following Constitution.

¹ English translation in HERTSLET, *op. cit.*, pp. 1807–1828.

² English translation in the *British and Foreign State Papers*, 61: pp. 110–113.

³ English translation in the *British and Foreign State Papers*, 61: pp. 128–131.

⁴ English translation in the *British and Foreign State Papers*, 61: pp. 113–127.

⁵ These introductory paragraphs are based upon W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. 1, pp. 321–324, and F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 170–172.

⁶ German text in FELIX STOERK, *Handbuch der deutschen Verfassungen* (2d edition, by F. W. VON RAUCHHAUPT, Munich, 1913), pp. 8–25, and in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 46–63. French translation in DARESTE, *op. cit.*, pp. 172–200. English translation in DODD, *op. cit.*, pp. 325–351, and by E. J. JAMES in *Foreign Constitutions [The Convention Manual of the Sixty New York State Constitutional Convention, 1894, part 2, vol. 3]* (Albany, 1894), pp. 266–286. The translation given here is based on the one in DODD, which has been brought up to date by a comparison with STOERK-RAUCHHAUPT.

I.—FEDERAL TERRITORY.

ARTICLE 1. The federal territory shall consist of the States of Prussia with Lauenburg, Bavaria, Saxony, Württemberg, Baden, Hesse, Mecklenburg-Schwerin, Saxe-Weimar, Mecklenburg-Strelitz, Oldenburg, Brunswick, Saxe-Meiningen, Saxe-Altenburg, Saxe-Coburg-Gotha, Anhalt, Schwarzburg-Rudolstadt, Schwarzburg-Weimar, Waldeck, Reuss, elder line, Reuss, younger line, Schaumburg-Lippe, Lippe, Lübeck, Bremen and Hamburg.¹

II.—LEGISLATION OF THE EMPIRE.

ART. 2. Within this federal territory the Empire shall exercise the right of legislation² in accordance with the provisions of this Constitution; and the laws of the Empire shall take precedence of the laws of the States. The laws of the Empire shall receive their binding force by imperial promulgation, through the medium of a *Reichsgesetzblatt* [Imperial Gazette]. If no other time is designated for the published law to take effect, it shall become effective on the fourteenth day after its publication in the *Reichsgesetzblatt* at Berlin.

ART. 3. There shall be a common citizenship for all Germany, and the members (subjects or citizens) of each State of the Confederation shall be treated in every other State as natives, and shall accordingly have the right of becoming permanent residents, of carrying on business, of filling public offices, of acquiring real estate, of obtaining citizenship and of enjoying all other civil rights under the same conditions as those born in the State, and shall also have the same treatment as regards judicial remedies and the protection of the laws.

No German shall be limited in the exercise of these rights by the authorities of his native State or by the authorities of any other State of the Confederation.

The regulations governing the care of paupers and their admission into the various local unions shall not, however, be affected by the principle enunciated in the first paragraph.

In like manner, until further action, those treaties shall remain in force which have been concluded between the several States of the Confederation in relation to the taking over of persons liable to be deported, the care of sick and the burial of deceased citizens.

With respect to the performance of military service in the several States, the necessary laws will be passed by the Empire.

¹ The Duchy of Lauenburg was joined to the crown of Prussia 13 September 1865, and incorporated in the Kingdom of Prussia by the Law of 23 June 1876. Alsace-Lorraine was joined to the Empire by the Law of 9 June 1871 and incorporated in the federal territory by the Law of 25 June 1873, Article 2. The Law of 9 June 1871 invested the Emperor with the exercise of the right of sovereignty over Alsace-Lorraine. The island of Heligoland was incorporated in the federal territory by the Law of 15 December 1890 Article 2.

² The Law of 2 May 1877 governs the exercise of the legislative power in Alsace-Lorraine.

As against foreign countries all Germans shall have an equal claim upon the protection of the Empire.

ART. 4. The following matters shall be under the supervision of the Empire and subject to imperial legislation:

1. Regulations concerning the freedom of migration,¹ matters of domicile and settlement,² citizenship, passports,³ surveillance of foreigners, exercise of a profession,⁴ including insurance,⁵ so far as these matters are not already provided for by Article 3 of this Constitution; in Bavaria, however, exclusive of matters relating to domicile and settlement, and likewise matters relating to colonization and emigration to foreign countries.⁶

2. Legislation concerning customs duties, commerce, and such taxes as are to be applied to the uses of the Empire.⁷

3. Regulation of the system of measures, coinage and weights,⁸ and the establishment of the principles for the issue of funded and unfunded paper money.

4. General banking regulations.⁹

5. Patents for inventions.¹⁰

6. The protection of the ownership of intellectual works.¹¹

7. The organization of a general system of protection for German trade in foreign countries, of German navigation and of the German flag on the high seas, and the establishment of a common consular representation, which shall be maintained by the Empire.

8. Railway matters, subject in Bavaria to the provisions of Article 46, and the construction of highways and waterways in the interests of national defense and of commerce in general.

9. Rafting and navigation upon waterways common to several States, the condition of such waterways, taxes collectable upon rivers and other waterways, and also the signals of maritime navigation (beacons, buoys, lights and other signals).¹²

10. Postal and telegraph affairs; in Bavaria and Württemberg however, only in accordance with the provisions of Article 52.

¹ Law of 1 November 1867 on freedom of migration.

² Law of 1 June 1870 on the acquisition and loss of federal nationality and State nationality.

³ Law of 12 October 1867 on passports.

⁴ Law of 21 June 1869 on industry, amended by numerous subsequent laws.

⁵ Law of 15 June 1883 on workmen's health insurance (amended in 1892, 1900 and 1903); Law of 30 June 1900 on workmen's accident insurance; Law of 22 June 1889 on workmen's old age and disability insurance (completed by the Law of 13 July 1899).

⁶ Law of 9 June 1897 on emigration.

⁷ See below, Articles 35 and 70.

⁸ Law of 4 December 1871 and Coinage Law of 9 July 1873; Ordinance of 17 August 1868 on weights and measures (amended in 1873, 1884, 1893 and 1900).

⁹ Law of 7 June 1869.

¹⁰ Law of 25 May 1877 on patents (amended by the Law of 7 April 1891); Law of 2 November 1874 on the protection of trade-marks.

¹¹ Law of 11 June 1870 on authors' rights.

¹² "And also . . . signals." Added by the Law of 3 March 1873.

11. Regulations concerning the reciprocal execution of judicial sentences in civil cases and the execution of requisitions in general.¹
12. Regulations concerning authentication of public documents.²
13. General legislation as to the whole domain of civil law,³ criminal law⁴ and judicial procedure.⁵
14. The imperial military and naval affairs.
15. Police regulation of medical and veterinary matters.
16. Regulations concerning the press and the right of association.⁶

ART. 5. The legislative power of the Empire shall be exercised by the Bundesrat and the Reichstag. A majority of the votes of both bodies shall be necessary and sufficient for the passage of a law.

With respect to laws concerning the army, navy and the taxes specified in Article 35, the vote of the *præsidium*⁷ shall decide in case of a difference of opinion in the Bundesrat, if such vote be in favor of the maintenance of existing arrangements.

III.—THE BUNDESRAT.

ART. 6. The Bundesrat shall consist of representatives of the members of the Confederation, among which the votes shall be divided in such manner that Prussia with the former votes of Hanover, Electoral Hesse, Holstein, Nassau and Frankfort shall have 17 votes; Bavaria, 6; Saxony, 4; Württemberg, 4; Baden, 3; Hesse, 3; Mecklenburg-Schwerin, 2; Saxe-Weimar, 1; Mecklenburg-Strelitz, 1; Oldenburg, 1; Brunswick, 2; Saxe-Meiningen, 1; Saxe-Altenburg, 1; Saxe-Coburg-Gotha, 1; Anhalt, 1; Schwarzburg-Rudolstadt, 1; Schwarzburg-Sondershausen, 1; Waldeck, 1; Reuss, elder line, 1; Reuss, younger line, 1; Schaumburg-Lippe, 1; Lippe, 1; Lübeck, 1; Bremen, 1; Hamburg, 1; total, 58 votes.

Each member of the Confederation may appoint as many delegates to the Bundesrat as it has votes, but the votes of each State shall be cast only as a unit.

ART. 6a.⁸ Alsace-Lorraine shall cast 3 votes in the Bundesrat so long as the provisions of Article 2, Section 1, and Section 2, Paragraphs 1 and 3, of the Law of 31 May 1911 concerning the Constitution of Alsace-Lorraine, remain in force.

¹ Law of 21 June 1869 on the reciprocal assistance of federal courts.

² Law of 1 May 1878 on the credibility due to authentic acts.

³ As amended by the Law of 20 December 1873. The original text read: "General legislation concerning the law of obligations, criminal law, the law of commerce and exchange, and judicial procedure." The Civil Code was promulgated 16 August 1896.

⁴ Penal Code of 15 May 1871, amended by numerous subsequent laws.

⁵ Code of Civil Procedure of 30 January 1877; Code of Penal Procedure of 1 February 1877.

⁶ Law of 7 May 1874 on the press; Law of 19 April 1908 on association.

⁷ I. e., of Prussia (see below, p. 223).

⁸ Article 6a was inserted by the Law of 31 May 1911 (cf. STÖRK-RAUCHHAUPT, *op. cit.*, pp. 10-11).

The votes of Alsace-Lorraine shall not be counted if the addition of these votes alone would give the majority to the presidential vote or would give it the deciding vote in the sense of Article 7, Paragraph 3, Sentence 3. The same shall hold good for the decisions upon amendments to the Constitution.

Alsace-Lorraine shall be understood to be a State of the Confederation in the sense of Article 6, Section 2, and of Articles 7 and 8

ART. 7. The Bundesrat shall take action:

1. Upon the measures to be proposed to the Reichstag and the resolutions passed by the same.
2. Upon the general administrative provisions and arrangement necessary for the execution of the imperial laws, so far as not otherwise provided for by imperial law.
3. Upon the defects which may be discovered in the execution of the imperial laws or of the provisions and arrangements heretofore mentioned.

Each member of the Confederation shall have the right to make propositions and introduce motions, and it shall be the duty of the *præsidium* to submit them for deliberation.

Decision shall be reached by simple majority, with the exception provided for by Articles 5, 37 and 78. Votes not represented or not instructed shall not be counted. In the case of a tie, the vote of the *præsidium* shall decide.

In decisions upon a subject which, according to the provisions of this Constitution, does not concern the whole Empire, only the vote of those States of the Confederation interested in the matter in question shall be counted.

ART. 8. The Bundesrat shall appoint from its own members permanent committees:

1. On the army and the fortifications.
2. On marine affairs.
3. On customs duties and taxes.
4. On commerce and trade.
5. On railroads, posts and telegraphs.
6. On judicial affairs.
7. On accounts.¹

In each of these committees there shall be representatives of at least four States of the Confederation, besides the *præsidium*, and each State shall be entitled to only one vote therein. In the Committee on the Army and Fortifications Bavaria shall have a permanent seat; the remaining members of this Committee, as well as the members of the Committee on Marine Affairs, shall be appointed by

¹ Five other permanent committees derive their personnel from the membership of the Bundesrat:

- | | |
|--------------------------|---------------------------------|
| 8. On foreign affairs. | 11. On the order of business. |
| 9. On Alsace-Lorraine. | 12. On railway freight tariffs. |
| 10. On the Constitution. | |

the Emperor; the members of the other committees shall be elected by the Bundesrat. These committees shall be newly formed at each session of the Bundesrat, i. e., each year, and the retiring members shall be eligible for reelection.

A Committee on Foreign Affairs, over which Bavaria shall preside, shall also be appointed in the Bundesrat; it shall be composed of the plenipotentiaries of the Kingdoms of Bavaria, Saxony and Württemberg and of two plenipotentiaries of the other States of the Empire, who shall be elected annually by the Bundesrat.

The employees necessary for the conduct of their work shall be placed at the disposal of the committees.

ART. 9. Each member of the Bundesrat shall have the right to appear in the Reichstag, and must be heard there at any time he shall so request, in order to represent the views of his government, even when such views shall not have been adopted by the majority of the Bundesrat. No one shall at the same time be a member of the Bundesrat and of the Reichstag.

ART. 10. The Emperor shall afford the customary diplomatic protection to the members of the Bundesrat.

IV.—THE PRESIDENCY.

ART. 11. The presidency (*præsidium*) of the Confederation shall belong to the King of Prussia, who shall bear the title of German Emperor. It shall be the duty of the Emperor to represent the Empire among nations, to declare war and to conclude peace in the name of the Empire, to enter into alliances and other treaties with foreign countries, to accredit and receive ambassadors.

For a declaration of war in the name of the Empire, the consent of the Bundesrat is required, unless an attack is made upon the federal territory or its coasts.

So far as treaties with foreign countries relate to matters which, according to Article 4, are to be regulated by imperial legislation, the consent of the Bundesrat shall be required for their conclusion, and the approval of the Reichstag shall be necessary to render them valid.

ART. 12. The Emperor shall have the right to convene, open, adjourn and close the Bundesrat and the Reichstag.

ART. 13. The Bundesrat and the Reichstag shall be convened annually, and the Bundesrat may be called together for the preparation of business without the Reichstag; the latter, however, shall not be convened without the Bundesrat.

ART. 14. The Bundesrat shall be convened whenever a meeting is demanded by one third of the total number of votes.

ART. 15. The Imperial Chancellor, to be appointed by the Emperor, shall preside in the Bundesrat and supervise the conduct of its business.

The Imperial Chancellor shall have the right to delegate the power to represent him to any other member of the Bundesrat; this delegation shall be made in writing.¹

ART. 16. The necessary bills shall be laid before the Reichstag in the name of the Emperor, in accordance with the resolutions of the Bundesrat, and shall be advocated in the Reichstag by members of the Bundesrat or by special commissioners appointed by the latter.

ART. 17. It shall be the duty of the Emperor to prepare and publish the laws of the Empire and to supervise their execution. The decrees and ordinances of the Emperor shall be issued in the name of the Empire and shall require for their validity the countersignature of the Imperial Chancellor, who thereby assumes the responsibility for them.²

ART. 18. The Emperor shall appoint Imperial officials, cause them to take the oath to the Empire and dismiss them when necessary.

Officials of any one of the States of the Confederation, who shall be appointed to any Imperial office, shall enjoy, with reference to the Empire, the same rights as those to which they are entitled in their native State by virtue of their official position, provided that no other legislative provision shall have been made previous to their entrance into the service of the Empire.³

ART. 19. If the States of the Confederation do not fulfill their constitutional duties, they may be compelled to do so by execution. The execution shall be decided upon by the Bundesrat and carried out by the Emperor.

V.—THE REICHSTAG.

ART. 20. The Reichstag shall be elected by universal and direct suffrage on secret ballot.

Until regulation by law, the power to make such regulation being reserved by Section 5 of the Electoral Law of 31 May 1869 (*Bundesgesetzblatt*, 1869, page 145), 48 deputies shall be elected in Bavaria 17 in Württemberg, 14 in Baden, 6 in Hesse south of the River Main and the total number shall consequently be 382.⁴

¹ The Law of 17 March 1878 authorized the Imperial Chancellor to delegate various functions of Imperial administration.

² By the Law of 17 March 1878, the countersignature may be made by an authorized representative of the Imperial Chancellor.

³ Law of 31 March 1873 on the rights and duties of Imperial officials (amended 1886, 1887, 1893, 1903 and 1905). There are nine departments: Foreign Affairs, Interior, Marine, Posts, Treasury, Railroads, Imperial Railroads, Banks, Justice.

⁴ Including, that is to say, those deputies returned by the States of the North German Confederation. By the Law of 25 June 1873, 15 additional members are elected from Alsace-Lorraine, making the total number 397, the remaining 297 being distributed as follows:

Prussia, 235; Saxony, 23; Mecklenburg-Schwerin, 6; Hesse, Saxe-Weimar, Oldenburg, Brunswick, and Hamburg, 3 each; Saxe-Meiningen, Saxe-Coburg-Gotha, and Anhalt, each; the rest, 1 each.

With certain minor exceptions every male German of the age of 25 years may vote for members of and may be elected to the Reichstag.

ART. 21. No leave of absence shall be required for public officials to enter the Reichstag.

When a member of the Reichstag accepts a salaried office of the Empire, or a salaried office in one of the States of the Confederation, or accepts any office of the Empire or of a State involving higher rank or salary, he shall forfeit his seat and vote in the Reichstag and may recover his place in the same only by a new election.

ART. 22. The proceedings of the Reichstag shall be public.

No one shall be held responsible for truthful reports of the proceedings of the public sessions of the Reichstag.

ART. 23. The Reichstag shall have the right to propose laws within the competence of the Empire and to refer petitions addressed to it to the Bundesrat or the Chancellor of the Empire.

ART. 24. The term of the Reichstag shall be five years.¹ To dissolve the Reichstag during that time, a resolution of the Bundesrat, with the consent of the Emperor, is required.

ART. 25. In case of the dissolution of the Reichstag, new elections shall take place within a period of 60 days, and the Reichstag shall be called together within a period of 90 days after its dissolution.

ART. 26. Without the consent of the Reichstag, an adjournment of that body shall not exceed the period of 30 days and shall not be repeated during the same session.

ART. 27. The Reichstag shall examine into the legality of the election of its members and decide thereon. It shall regulate its own procedure and its own discipline, through its order of business, and elect its president, vice-presidents and secretaries.

ART. 28. The Reichstag shall take action by absolute majority. To render any action valid, the presence of a majority of the statutory number of members is required.²

ART. 29. The members of the Reichstag are the representatives of the people as a whole and shall not be bound by orders or instructions.

ART. 30. No member of the Reichstag shall at any time suffer legal or disciplinary prosecution on account of his vote or on account of utterances made while in the performance of his functions, or be held responsible in any other way outside of the Reichstag.

ART. 31. Without the consent of the Reichstag, no one of its members shall be tried or arrested during the session for any penal offense.

¹ As amended by the Law of 19 March 1888. Originally the term was three years.

² The second paragraph of this article was repealed by the Law of 24 February 1873. It read as follows: "In decisions of a matter which, according to this Constitution, does not concern the entire Empire, only such members shall vote as are elected from States whose interests are affected by the proposition." Cf. the last paragraph of Article 7, p. 222, above.

unless he be taken in the commission of the offense, or during course of the following day.

Like consent shall be required in the case of arrest for debt.¹

At the request of the Reichstag all criminal proceedings instituted against one of its members and all detentions for judicial inquiry or in civil cases shall be suspended during its session.

ART. 32. The members of the Reichstag as such shall receive salary. They shall receive an indemnity in accordance with the provisions of law.²

VI.—CUSTOMS AND COMMERCE.

ART. 33. Germany shall form one customs and commercial territory, having a common frontier for the collection of duties. So parts of the territory as can not, by reason of their situation, be suitably embraced within the customs frontier, shall be excluded.

All articles which are the subject of free traffic in one State of Confederation may be brought into any other State, and in the latter shall be subject only to such internal taxes as are imposed upon similar domestic productions.

ART. 34. The Hanse cities, Bremen and Hamburg, together with a part of their own or of the surrounding territory suitable for such purpose, shall remain free ports outside of the common customs frontier, until they request admission within such frontier.

ART. 35. The Empire shall have the exclusive power to legislate concerning everything relating to the customs, concerning the taxation of salt and tobacco produced in the federal territory, of domestic brandy and beer and of sugar and sirup prepared from beets or of domestic products, concerning the mutual protection against fraud with reference to all taxes upon articles of consumption levied in several States of the Confederation, as well as concerning the measures which may be required in the territory, outside the customs boundaries, for the security of the common customs frontier.

In Bavaria, Württemberg and Baden, the matter of taxing domestic brandy and beer shall remain reserved to the legislation of the States. The States of the Confederation shall, however, endeavor to bring about uniform legislation regarding the taxation of all articles also.

ART. 36. The administration and collection of customs duties and of the taxes on articles of consumption (Article 35) shall be left

¹ Law of 29 May 1868 on the abolition of imprisonment for debt.

² As amended by the Law of 21 May 1906. Article 32, as originally worded, provided for any salary or indemnity to members of the Reichstag. A law of 21 May 1906 provided that members of the Reichstag shall receive: (1) Free transportation on the German railways during the sessions of the Reichstag and for 8 days before the beginning of the session and 8 days after the close of each session; and (2) a yearly indemnity of 3,000 marks.

each State of the Confederation within its own territory, so far as these functions have heretofore been exercised by each State.

The Emperor shall superintend the observance of legal methods by means of imperial officers whom he shall appoint, after consulting the Committee of the Bundesrat on Customs Duties and Taxes, to act in cooperation with the customs or tax officials and with the directive boards of the several States.

Reports made by these officers concerning defects in the administration of the joint legislation (Article 35) shall be submitted to the Bundesrat for action.

Arr. 37. In taking action upon the rules and regulations for the execution of the joint legislation (Article 35), the vote of the *præsidium* shall decide when it is cast in favor of maintaining the existing rule or regulation.

Arr. 38. The revenues from customs and from the other taxes designated in Article 35, so far as the latter are subject to imperial legislation, shall go to the treasury of the Empire.

Such revenues shall consist of the total receipts from the customs and the other taxes, after deducting therefrom:

1. Tax rebates and reductions in conformity with existing laws or general administrative regulations.
2. Reimbursements for taxes improperly collected.
3. The costs of collection and of administration, viz:
 - a. In case of the customs, the costs which are required for the protection and collection of customs on the frontiers and in the frontier districts.
 - b. For the salt tax, the costs which are incurred for the salaries of the officers charged with the collection and control of this tax at the salt works.
 - c. For the taxes on beet sugar and on tobacco, the compensation which is to be allowed, according to the existing rules of the Bundesrat, to the several State governments for the cost of administering these taxes.
 - d. Fifteen per cent of the total receipts from other taxes.

The territories situated outside of the common customs frontier shall contribute to the expenses of the Empire by payment of a proportional sum (*aversum*).

Bavaria, Württemberg and Baden shall not share in the revenues which go into the treasury of the Empire from duties on brandy and beer, nor in the portion of the aforesaid proportional sum corresponding to these revenues.

The provision of Article 38, Paragraph 2, Number 3 d. of the Imperial Constitution is repealed, in so far as it relates to the tax on breweries. The compensation to be allowed to the States for the

expense of collecting and administering the tax on breweries shall be fixed by the Bundesrat.¹

ART. 39. The quarterly extracts, made at the end of each quarter by the revenue boards of the States of the Confederation, and the final statements, made at the end of the year after the closing of the accounts, of the receipts which have become due in the course of the quarter, or during the fiscal year, from customs and from taxes on consumption which, according to Article 38, belong to the treasury of the Empire, shall, after a preliminary audit, be assembled in general summaries by the directive boards of the various States. Each tax shall be separately entered, and these summaries shall be transmitted to the Committee of Accounts of the Bundesrat.

The latter, upon the basis of these summaries, shall fix provisionally every three months the amounts due to the imperial treasury from the treasury of each State, and it shall inform the Bundesrat and the States of the amounts so fixed; furthermore, it shall submit to the Bundesrat annually the final statement of these amounts with its remarks. The Bundesrat shall take action upon the determination of such amounts.

ART. 40. The terms of the Customs Union Treaty of 8 July 1867.² shall remain in force, so far as they have not been altered by the provisions of this Constitution and so long as they are not altered in the manner designated in Articles 7 or 78.

VII.—RAILWAYS.

ART. 41. Railways, which are considered necessary for the defense of Germany or in the interest of general commerce, may, by force of imperial law, be constructed at the expense of the Empire, even against the opposition of the members of the Union through whose territory the railroads run, without prejudice, however, to the sovereign rights of the States; or private persons may be granted the right to construct railways and receive the right of eminent domain.

Every existing railway is bound to permit new railroad lines to be connected with it, at the expense of the said new lines.

All laws which grant existing railway undertakings the right to prevent the building of parallel or competitive lines are hereby repealed throughout the Empire, without prejudice to rights already acquired. Such rights of prevention shall not be granted in future concessions.

ART. 42. The governments of the States of the Confederation bind themselves, in the interest of general commerce, to manage the German railways as one system, and for this purpose to have all new lines constructed and equipped according to a uniform plan.

¹ This last paragraph was added by the Law of 3 June 1906.

² Law of 27 May 1885 modifying the Customs Union Treaty of 8 July 1867.

τ. 43. Accordingly, as soon as possible, uniform arrangements of operation shall be made, and especially shall uniform regulations be adopted for the police of railways.¹ The Empire shall take care that the various railway administrations keep the roads at all times in such condition as is necessary for public security and furnish with such equipment as the needs of traffic may require.

τ. 44. Railway administrations are bound to establish as many passenger trains of suitable speed as may be required for through traffic and for the establishment of harmony between time tables; to establish such freight trains as may be necessary for the transport of goods and to organize a system of through forwarding both of passenger and freight traffic, permitting rolling stock to go from one road to another for the usual remuneration.

τ. 45. The Empire shall have control of the tariff of charges. It shall especially exert itself to the end:

1. That uniform regulations as to operation be introduced as far as possible on all German railway lines. .
2. That the tariff be reduced and made uniform as far as possible and particularly that in the long-distance transportation of coke, wood, ores, stone, salt, pig-iron, manure, and similar articles, a tariff be introduced suitably modified in the interests of agriculture and industry; and that the 1-pfennig tariff be introduced wherever it is as practicable.

τ. 46. In case of public distress, especially in case of an extraordinary rise in the price of provisions, it shall be the duty of the railway administrations to adopt temporarily a low special tariff suited to the circumstances, to be fixed by the Emperor on motion of the competent committee of the Bundesrat, for the transport of grain, legumes and potatoes. This tariff shall, however, not be lower than the lowest existing rate for raw produce on the said line.

The foregoing provisions, and those of Articles 42-45, shall not apply to Bavaria.

The Empire, however, shall have the power, with respect to Prussia also, to establish by means of legislation uniform standards for the construction and equipment of railways which may be of importance for the defense of the country.

τ. 47. The managers of all railways shall be required to obey, without hesitation, requisitions made by the authorities of the Empire for the use of their roads for the defense of Germany. In particular troops and all materials of war be forwarded at uniformly reduced rates.

¹ The regulations, which are very numerous, are listed in A. ARNDT, *Verfassung des Deutschen Reichs* (3d edition, Berlin, 1907), p. 263.

VIII.—POST AND TELEGRAPH.

ART. 48. The postal and telegraphic systems shall be organized and managed on a uniform plan, as State institutions throughout the German Empire.

The legislation of the Empire in regard to postal and telegraphic affairs, provided for in Article 4, shall not extend to those matters the control of which is left to governmental ordinance or administrative regulation, according to the principles which have prevailed in the administration of post and telegraph by the North German Confederation.

ART. 49. The receipts from post and telegraph throughout the Empire shall belong to a common fund. The expenses shall be paid from the general receipts. The surplus shall go into the imperial treasury (Section XII).

ART. 50. The Emperor shall have the supreme supervision of the administration of post and telegraph. The officers appointed by him shall have the duty and the right to see to it that uniformity be established and maintained in the organization of the administration and in the conduct of business, as well as in the qualifications of employees.

The Emperor shall have the power to issue governmental instructions and general administrative regulations, and also the exclusive right to regulate the relations with the postal and telegraphic systems of other countries.

It shall be the duty of all officers of the postal and telegraphic administration to obey the orders of the Emperor. This obligation shall be assumed in the oath of office.

The appointment of such superior officers as shall be required for the administration of the post and telegraph in the various districts (such as directors, counselors, superintendents), furthermore, the appointment of officers of the post and telegraph acting in the capacity of organs of the aforesaid authorities as supervisors or for other services in the several districts (such as inspectors, controllers), shall be made throughout the Empire by the Emperor, to whom such officers shall take the oath of office. The governments of the several States shall receive timely notice of the aforementioned appointments, so far as they may relate to their territories, so that they may officially confirm and publish them.

Other officers required in the administration of the post and telegraph, as well as all those employed for local and technical work, including the officials in the local offices, and so forth, shall be appointed by the governments of the respective States.

Where there is no independent State administration of post or telegraph, the terms of special treaties shall control.

ART. 51.¹

ART. 52. The provisions of the foregoing Articles 48-51 shall not apply to Bavaria and Württemberg. In their place the following provisions shall be valid for these two States of the Empire:

The Empire shall have the exclusive power to legislate upon the privileges of the post and telegraph, upon the legal relations of both institutions to the public, upon the franking privilege and the postal rates, excepting, however, the adoption of administrative regulations and of rates for the internal communication within Bavaria and Württemberg, respectively; and, under like limitations, upon the fixing of charges for telegraphic correspondence.

In the same manner, the Empire shall have the regulation of postal and telegraphic communication with foreign countries, excepting the immediate intercourse of Bavaria and Württemberg with neighboring States not belonging to the Empire, the regulation of which shall be subject to the provisions of Article 49 of the Postal Treaty of 23 November 1867.²

Bavaria and Württemberg shall not share in the postal and telegraphic receipts coming into the treasury of the Empire.

IX.—MARINE AND NAVIGATION.

ART. 53. The navy of the Empire shall be a united one, under the supreme command of the Emperor. The Emperor is charged with its organization and construction; he shall appoint the officers and employees of the navy, and they and the seamen shall take an oath of obedience to him.

The harbor of Kiel and the harbor of the Jade shall be imperial naval ports.

The expense required for the establishment and maintenance of the navy and of the institutions connected therewith shall be defrayed from the treasury of the Empire.

All seafaring men of the Empire, including machinists and artisans employed in ship-building, are exempt from service in the army, but are liable to service in the imperial navy.³

ART. 54. The merchant vessels of all States of the Confederation shall form a united merchant marine.

¹Article 51 governed, for the first eight years, a special method of computing postal surpluses. At the expiration of these eight years, the total surplus was to be turned into the imperial treasury.

²This postal treaty was between the North German Confederation, Bavaria, Württemberg and Baden.

³Paragraph 5 of Article 53 was repealed by the Law of 26 May 1893. It read as follows: "The apportionment of regulations to supply the ranks of the navy shall be made according to the actual seafaring population, and the number furnished in accordance herewith by each State shall be deducted from the number otherwise required for the army."

The Empire shall determine the process for ascertaining the tonnage of seagoing vessels, shall regulate the issuance of bills of tonnage and of ship certificates, and shall fix the conditions upon which a license to command a seagoing vessel shall be granted.

The merchant vessels of all the States of the Confederation shall be admitted on equal footing to the harbors and all natural and artificial watercourses of the several States of the Confederation, and shall be accorded similar treatment therein. The fees which may be collected in harbors, from sea going vessels or from their cargoes, for the use of marine institutions, shall not exceed the amount necessary for the maintenance and ordinary repair of these institutions.

On all natural watercourses taxes may be levied only for the use of special institutions which serve to facilitate commercial intercourse. These taxes, as well as the charge for navigating such artificial channels as are the property of the State, shall not exceed the amount required for the maintenance and ordinary repair of such institutions and establishments. These provisions shall apply to rafting, in so far as it is carried on along navigable watercourses.

The power to lay other or higher taxes upon foreign vessels or their cargoes than those which are paid by the vessels of the States of the Confederation or their cargoes shall belong only to the Empire and not to the separate States.

ART. 55. The flag of the naval and merchant marine is black, white and red.

X.—CONSULAR AFFAIRS.

ART. 56. The Emperor shall have the supervision of all consular affairs of the German Empire, and he shall appoint consuls, after hearing the Committee of the Bundesrat on Trade and Commerce.

No new State consulates shall be established within the districts covered by German consuls. German consuls shall perform the functions of State consuls for the States of the Confederation not represented in their districts. All the State consulates now existing shall be abolished as soon as the organization of the German consulates shall be completed in such a manner that the representation of the separate interests of all the States of the Confederation shall be recognized by the Bundesrat as satisfactorily secured by the German consulates.

XI.—MILITARY AFFAIRS OF THE EMPIRE.

ART. 57. Every German is liable to military duty,¹ and in the discharge of this duty no substitute shall be accepted.

ART. 58. The costs and the burden of the entire military system of the Empire shall be borne equally by all the States of the Confede

¹ Law of 9 November 1867 on the obligation of military service.

ation and their subjects, so that neither special privileges nor burdens upon particular States or classes are in principle permissible. Where an equal distribution of the burdens can not be effected *in natura* without prejudice to the public welfare, the equalization shall be effected by legislation in accordance with the principles of justice.

ART. 59. Every German capable of bearing arms shall belong for seven years to the standing army, as a rule from the end of his 20th to the beginning of his 28th year; during the next five years he shall belong to the national guard (*Landwehr*) of first summons, and then to the national guard of second summons until 31 March of the calendar year in which he reaches the age of 39 years.

During the period of service in the standing army the members of the cavalry and of the mounted field artillery are required to serve the first three years, and all other forces the first two years, in unbroken active service.

As regards the emigration of men belonging to the reserve, only those provisions shall be in force which apply to the emigration of members of the national guard (*Landwehr*).¹

ART. 60. The effective strength of the German army in time of peace shall be fixed, until 31 December 1871, at 1 per cent of the population of 1867, and shall be furnished *pro rata* by the several States of the Confederation. After the above date the effective strength of the army in time of peace shall be fixed by imperial legislation.

ART. 61. After the publication of this Constitution the entire Prussian system of military legislation shall be introduced without delay throughout the Empire, both the statutes themselves and the regulations, instructions and rescripts issued for their execution, explanation or completion; especially the Military Penal Code of 3 April 1845; the Law of Military Penal Procedure of 3 April 1845; the ordinance of 20 July 1843 concerning the courts of honor; the regulations with respect to recruiting, time of service, matters relating to quarters and subsistence, to the quartering of troops, to compensation for injury done to fields, to mobilization of troops, etc., in times of peace and war. The military ordinance relating to religious observances is, however, excepted.

When a uniform organization of the German army for war purposes shall have been established, a comprehensive military code for the Empire shall be submitted to the Reichstag and the Bundesrat for their action, in accordance with the Constitution.

ART. 62. For the purpose of defraying the expenses of the whole German army, and of the institutions connected therewith, the sum of 225 thalers for each man in the army on the peace footing accord-

¹ This article is given as amended by the Laws of 11 February 1888 and 15 April 1905.

ing to Article 60, shall be annually placed at the disposal of the Emperor until 31 December 1871. (See Section XII.)

After 31 December 1871, the several States of the Confederation shall pay these contributions into the imperial treasury. Until it is altered by an imperial law, the strength of the army in time of peace, as temporarily fixed in Article 60, shall be taken as a basis for calculating the amounts of such contributions.

The expenditure of these sums for the imperial army and its establishments shall be fixed by the budgetary law.

In determining the budget of military expenditure, the organization of the imperial army, legally established in accordance with this Constitution, shall be taken as a basis.

ART. 63. The total land force of the Empire shall form one army, which shall be under the command of the Emperor, in war and in peace.

The regiments, etc., throughout the whole German army shall bear continuous numbers. As to the uniform, the primary colors and cut of the royal Prussian army shall be the standard. It is left to commanders of the several contingents to determine upon external marks of distinction (cockades, etc.).

It shall be the duty and right of the Emperor to take care that throughout the German army all divisions be kept complete and ready to take the field, and that uniformity be established and maintained in regard to organization and formation, equipment and command, the training of the men and the qualifications of the officers. For this purpose the Emperor shall have authority to satisfy himself at any time, by inspection, of the condition of the several contingents, and to order the correction of defects disclosed by such inspection.

The Emperor shall determine the strength, composition and division of the contingents of the imperial army, and also the organization of the national guard (*Landwehr*), and he shall have the right to determine the garrisons within the federal territory, as also to order any portion of the imperial army held in readiness for war.

In order to maintain the indispensable unity in the administration, care, arming and equipment of all divisions of the German army all orders relating to these matters hereafter issued to the Prussian army shall be communicated, for their proper observance, to the commanders of the other contingents, through the Committee on the Army and Fortifications provided for by Article 8, No. 1.

ART. 64. All German troops are bound to render unconditional obedience to the commands of the Emperor. This obligation shall be included in the military oath.

The commander-in-chief of a contingent, as well as all officers commanding troops of more than one contingent, and all commanders of fortresses, shall be appointed by the Emperor. The officers appointed

Emperor shall take the military oath to him. The appointments of generals, and of officers performing the duties of generals of contingents, shall in every case be subject to the approval of the Emperor.

The transfer of officers, with or without promotion, to positions to be filled by him in the service of the Empire, be it in the imperial army or in other contingents, the Emperor shall have the right to select from the officers of all the contingents of the Empire.

5. The right to construct fortresses within the federal territory belongs to the Emperor, who shall ask in accordance with Article XII for the grant of the means required for that purpose, which has already been included in the regular appropriation.

6. Where special conventions do not provide otherwise, the members of the Confederation and the senates shall appoint the officers of their respective contingents, subject to the restriction of Article 64. They shall be the heads of all of the divisions of troops belonging to their respective territories, and shall enjoy the honors connected therewith. They shall have particularly the right to hold inspections at any time, and shall receive, besides the regular reports and announcements, changes to be made, timely information of all promotions and appointments concerning their respective contingents, in order to enable them to make for the necessary publication of such information by their authority.

They shall also have the right, for police purposes, not only to command their own troops, but also to requisition all other divisions of the imperial army which may be stationed in their respective territories.

7. Unexpended portions of the military appropriation shall, in extraordinary circumstances fall to the share of a single government, and shall be returned twice a year to the imperial treasury.

8. The Emperor shall have the power, if public security in the federal territory is threatened, to declare martial law in any part of the Empire. Until the publication of a law regulating the form of announcement and the effects of such a declaration, the provisions of the Prussian Law of 4 June 1851 shall remain in force (*Gesetz-Sammlung*, 1851, p. 451 ff.)

FINAL PROVISION OF SECTION XI.

The provisions contained in this section shall be applied in Baden in accordance with the more detailed provisions of the Treaty of Commerce of 23 November 1870¹ (*Bundesgesetzblatt*, 1871, p. 9), in Prussia, in accordance with the provisions of the Law of 1871, I, § 5; in Württemberg, in accordance with the more de-

¹ See above, p. 218, note 4.

tailed provisions of the Military Convention of 21-25 November 1870¹ (*Bundesgesetzblatt*, 1870, p. 658).

XII. FINANCES OF THE EMPIRE.

ART. 69. All receipts and expenditures of the Empire shall be estimated for each year, and included in the imperial budget. The latter shall be fixed by law before the beginning of the fiscal year in accordance with the following principles.

ART. 70. For the defrayal of all common expenses there shall be first of all the joint revenues derived from customs duties, from common taxes, from the railway, postal and telegraphic systems, from the other branches of the administration. In so far as the expenditures are not covered by such receipts, they shall be met by contributions from the several States of the Confederation in proportion to their population, such contributions to be fixed by the Imperial Chancellor, with reference to the total amount established by the budget. In so far as these contributions are not used, they shall be repaid to the States at the end of the year, in proportion as the ordinary receipts of the Empire exceed its needs.

Any surpluses from preceding years shall be used, in so far as imperial budgetary law does not otherwise provide, for defraying the joint extraordinary expenses.²

ART. 71. The general appropriations shall, as a rule, be granted for one year; they may, however, in special cases, be granted for a longer period.

During the period of transition fixed by Article 60, the proposed classified budget of the expenditures of the army shall be laid before the Bundesrat and the Reichstag merely for their information.

ART. 72. For the purpose of discharge an annual report of expenditure of all the revenues of the Empire shall be presented through the Imperial Chancellor, to the Bundesrat and the Reichstag for their approval.

ART. 73. In cases of extraordinary need, a loan may be contracted or a guaranty assumed as a charge upon the Empire, by means of imperial legislation.

FINAL PROVISION OF SECTION XII.

Articles 69 and 71 shall apply to expenditures for the Bavarian army only according to the provisions of the Treaty of 23 November 1870, mentioned in the final provision of Section XI; and Article 72 shall apply only to the extent that the Bundesrat and the Reichstag

¹ English translation in the *British and Foreign State Papers*, 61: pp. 131-135.

² As amended by the Laws of 14 May 1904 and 3 June 1906.

shall be informed that the sum necessary for the Bavarian army has been assigned to Bavaria.

XIII.—SETTLEMENT OF DISPUTES AND PENAL PROVISIONS.

ART. 74. Every attempt against the existence, the integrity, the security or the Constitution of the German Empire; finally, any offense committed against the Bundesrat, Reichstag, a member of the Bundesrat or of the Reichstag, an authority or a public officer of the Empire, while in the execution of their duty or with reference to their official position, by word, writing, printing, drawing, pictorial or other representation, shall be judged and punished in the several States of the Confederation in accordance with the laws therein existing or which may hereafter be enacted, by which provision is made for the trial of similar offenses against any one of the States of the Confederation, its constitution, its legislature or estates, the members of its legislature or its estates, its authorities and officers.

ART. 75. For those offenses against the German Empire, specified in Article 74, which, if committed against one of the States of the Empire, would be considered high treason or treason against the State, the Superior Court of Appeals of the three free Hanse cities, at Lübeck, shall be the competent deciding tribunal in the first and last instance.

More definite provisions as to the competency and the procedure of the Superior Court of Appeals shall be made by Imperial legislation. Until the passage of an Imperial law, the existing jurisdiction of the courts in the respective States, and the provisions relative to the procedure of these courts shall remain as at present.¹

ART. 76. Disputes between the several States of the Confederation, so far as they do not relate to matters of private law, and are therefore to be decided by the competent judicial authorities, shall be adjusted by the Bundesrat, at the request of one of the parties.

In disputes relating to constitutional matters in those States of the Confederation whose constitution does not designate an authority for the settlement of such differences, the Bundesrat shall, at the request of one of the parties, effect an amicable adjustment, or, if this can not be done, the matter shall be settled by imperial law.

ART. 77. If justice is denied in one of the States of the Confederation, and sufficient relief can not be procured by legal measures, it shall be the duty of the Bundesrat to receive substantiated complaints concerning denial or restriction of justice, which shall be proven according to the constitution and the existing laws of the respective States of the Confederation, and thereupon to obtain judicial relief

¹ The criminal competence of the Superior Court of Appeals at Lübeck disappeared with the creation of the Supreme Court of the Empire.

from the State government which shall have given occasion to the complaint.

XIV.—GENERAL PROVISIONS.

ART. 78. Amendments of the Constitution shall be made by legislative enactment. They shall be considered as rejected when 14 votes are cast against them in the Bundesrat.

The provisions of the Constitution of the Empire, by which certain rights are secured to particular States of the Confederation in their relation to the whole, may be amended only with the consent of the States affected.

GREAT BRITAIN AND IRELAND.

There is no Constitution in England, if by this expression is meant fundamental law organizing the powers of the State and fixing the basis of public law. At no period in their history have the English considered it necessary or expedient to present their political system under the form of a solemn act, setting forth abstract theories or containing the construction of an entirely new political edifice. There are, it is true, certain famous historical documents, each of which marks a step in the progress of English institutions. Such are notably the *Great Charter of Liberty*, the *Petition of Right*, the *Declaration of Rights* and the *Act of Settlement*. But it must be noticed that none of them herald the settlement of anything new; on the contrary, it is repeated with a peculiar insistence that the rights and liberties which it has seemed necessary to proclaim anew are ancient liberties which the English people have always enjoyed.

The rules of the English Constitution can be found in no single written document, for it is built upon old laws and precedents. Therefore, it would be manifestly impossible to include all such laws in the work of this character. Besides the laws which are printed in text or translation, it will be sufficient to enumerate certain Acts of Parliament upon constitutional matters:

The 39 articles governing the Constitution of the English church established by the clergy in 1562 and converted into law of the realm in 1571 [13 *Elizabeth*, c. 12].

The *Act for an Union of the Two Kingdoms of England and Scotland* of 16 May 1707 [6 *Anne*, c. 11].

The *Act for rendering the Union of the Two Kingdoms more perfect and complete* of 1707 [6 *Anne*, c. 40].

The *Act for Union of Great Britain and Ireland* of 2 July 1800 [1 & 40 *George III*, c. 67, amended by 21 & 22 *Victoria*, c. 26, and the *Statute Law Revision Act* of 1871].

The *Act for the Relief of His Majesty's Roman Catholic Subjects* of 4 June 1829 [10 *George IV*, c. 7].

The *Act to amend the Representation of the People in England and Wales* of 7 June 1832 [2 *William IV*, c. 45], of the *People in Ireland* of 17 July 1832 [2 *William IV*, c. 65], of the *People in Ireland* of 7 August 1832 [2 *William IV*, c. 88].

An Act further to amend the Laws relating to the representation of the People in England and Wales of 15 August 1867 [30 & 31 *Victoria*, c. 102].

An Act to amend the Law relating to the Representation of the People of the United Kingdom of 6 December 1884 [48 *Victoria*, c. 3]. This was followed by a series of laws passed in 1885 of which the chief ones are: *The Registration Acts* [48 & 49 *Victoria*, c. 15, 16 and 17] and the *Redistribution of Seats Act* [48 & 49 *Victoria*, c. 23].¹

GREAT CHARTER OF LIBERTIES OF 11 FEBRUARY 1225.²

[PREAMBLE.]

Henry, by the grace of God, King of England, Lord of Ireland, Duke of Normandy and Guyan, and Earl of Anjou, to the archbishops, bishops, abbots, priors, earls, barons, sheriffs, reeves, servants, and all bailiffs and his faithful subjects, which shall see this present Charter, greeting. Know that by the suggestion of God, and for the salvation of our soul and the souls of our predecessors and successors, to the exaltation of Holy Church and improvement of our realm, of our own free good will, we have given and granted to the archbishops, bishops, abbots, priors, earls, barons, and to all of our realm these liberties written below, to be kept in our Kingdom of England forever.

ARTICLE 1. In the first place we have granted to God, and by this our present Charter have confirmed, for us and our heirs forever, that the English Church shall be free and shall have all its rights entire and its liberties uninjured. We have granted also and given to all free men of our realm, for us and our heirs forever, these liberties written below, to be had and be holden by them and their heirs from us and our heirs forever.

ARTS. 2-6.³

¹ These introductory paragraphs are based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 46-51. Since the present work contains only documents of a constitutional nature, and since an adequate outline of the Constitution of Great Britain is to be derived from such a multitude of sources, the reader is therefore referred to an article in English by LOUIS HAMILTON in PAUL POSENER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 601-629, to the authorities there cited and to the authorities cited in DARESTE, *op. cit.*, pp. 70-72.

² Of the 37 articles composing the Great Charter of Henry III, 22 are now considered as repealed and have been so declared by the Statutes of Parliament, notably by the *Statute Law Revision Act* of 1863 [26 & 27 *Victoria*, c. 125.] The Great Charter has been confirmed a number of times, but these confirmations all carry forward the text of 1225, the Charter of 1215 containing provisions not reproduced in subsequent confirmations. The translation given here is based upon the Latin text and English translation of the Charter of 1297 [25 *Edward I*], confirming the Charter of Henry III [9 *Henry III*], in *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 44-53. French translation of this and the following documents appears in DARESTE, *op. cit.*, pp. 52-70.

³ Repealed by the *Statute Law Revision Act* of 1863.

ART. 7.¹

ART. 8. We, or our bailiffs, shall not seize any land or rent for any debt, so long as the present chattels of the debtor are sufficient for the payment of the debt and the debtor himself is ready to satisfy the same. Nor shall the pledges of the debtor be distrained, so long as the principal debtor himself is sufficient for the payment of the debt; and if the principal debtor fail in the payment of the debt, notwithstanding the wherewithal to pay, or will not pay where he is able, the pledges shall answer for the debt; and if they wish, they shall have the lands and rents of the debtor, until they shall have been satisfied for the debt which they before paid for him, unless the debtor shall have shown himself to be quit in that respect towards those pledges.

ART. 9. The city of London shall have all its ancient liberties and customs. Moreover, we will and grant that all other cities and boroughs and villages and the barons of the Cinque Ports, and all other ports, shall have all their liberties and free customs.

ART. 10. No man shall be distrained to do more service for a knight's fee or for any other free tenement than is due from it.

ARTS. 11–12.²

ART. 13.³

ART. 14. A free man shall not be fined (*amercietur*) for a small offence, except in proportion to the measure of the offence; and for a great offence, [he shall be fined] in proportion to the magnitude of the offence, saving to him his freehold; and a merchant likewise, saving his merchandise; and any other's villian than ours shall be likewise fined, saving his wainage, if he shall be at our mercy. And none of the above fines shall be imposed except by the oaths of honest and lawful men of the neighborhood. Earls and barons shall only be fined by their peers, and only in proportion to their offence. No man of the church shall be fined in proportion to the measure of his spiritual benefice, but in proportion to his lay holding and to the measure of his offence.

ART. 15. No vill or man shall be distrained to make bridges over the rivers except those which of old time and of right ought to do it.

ART. 16. No river-banks shall be defended from henceforth, but as they were in defence in the time of King Henry our grandfather, in the same places and the same bounds as they were wont to be in that time.

¹Provisions regarding the restriction of the dowry and second marriages of widows. Repealed by 42 & 43 Victoria, c. 59. Article 11 concerned common pleas and circuit courts.

³Repealed by the Statute Law Revision Act of 1863.

ART. 17. No sheriff, constable, coroner, or other bailiffs of our shall hold pleas of our crown.

ART. 18.¹

ARTS. 19-21.²

ART. 22. We will not hold the lands of those convicted of felony for more than a year and a day, after which the lands shall be returned to the lords of the fiefs.

ART. 23.³

ART. 24.²

ART. 25.⁴

ART. 26.⁵

ARTS. 27-28.²

ART. 29. No free man shall be taken or imprisoned, or be dispossessed of his freehold or liberties or free customs, or be outlawed, or exiled, or in any other way destroyed; nor will we go upon him or send upon him except by the lawful judgment of his peers or by the law of the land. To no one will we sell, to no one will we deny or defer right or justice.

ART. 30. All merchants, if they were not openly prohibited before shall have their safe and sure conduct to depart out of England, to come into England, to tarry in and go through England, as well by land as by water, for buying and selling, free from all malevolts, by the ancient and rightful customs, except in time of war; and if there are of a land at war with us and such are found in our land at the beginning of the war, they shall be attached without damage to their bodies or goods, until it shall be known from us or our chief justice in what way the merchants of our land are treated who shall be then found in the country which is at war with us; and if our are safe there, the others shall be safe in our land.

ARTS. 31-37.⁶

Reserving to all archbishops, bishops, abbots, priors, templars, hospitaliers, earls, barons, and all persons, as well spiritual as temporal, all their liberties and free customs, which they have had in time past. And all those customs and liberties mentioned above which we have granted to be holden within our realm, as far as pertains to us, in respect to our men; all men of our realm, as well clergy as laymen shall observe, as far as pertains to them, in respect to their men.

¹ Provision regarding the opening of succession of lay tenants of the King.

² Repealed by the *Statute Law Revision Act* of 1863.

³ Provision regarding fishing in rivers.

⁴ Provision regarding weights and measures.

⁵ Repealed by 9 *George IV*, c. 31, s. 1.

⁶ Repealed by the *Statute Law Revision Act* of 1863. The provisions concerned feudal law.

And for this our gift and grant of these liberties, and of others obtained in our Charter of Liberties of the Forest,¹ the archbishops, bishops, abbots, priors, earls, barons, knights, freeholders, and all of our realm have given unto us the fifteenth part of all their movables. And we have granted unto them on the other part, for us and our heirs, that neither we nor our heirs shall produce or do anything whereby the liberties contained in this Charter shall be infringed or broken. And if anything be procured by any person contrary to the premises, it shall not be valid and shall be considered null.²

CONFIRMATION OF CHARTERS, OF 10 OCTOBER 1297.³

CONFIRMATION OF THE MAGNA CHARTA AND OF THE CHARTER OF FORESTS BY EDWARD I.

ARTICLE 1. Edward, by the grace of God, King of England, Lord of Ireland, and Duke of Guyan, to all those that these present letters shall hear or see, greeting. Know that we, to the honor of God and of Holy Church and to the profit of all our realm, have granted, for us and for our heirs, that the Great Charter of Liberties and the Charter of the Forest, which were made by common assent of all the realm in the time of King Henry our father, shall be kept in all points without breach. And we will that the same charters shall be sent under our seal, as well to our justices of the forest, as to others, and to all sheriffs of shires, and to all our other officers, and to all our cities throughout the land, together with our writs, in which it shall be contained that they cause the foresaid charters to be published and cause to be declared to the people that we have confirmed them in all points; and to our justices, sheriffs, mayors and other ministers, which under us and by us have the laws of our land to guide, that they shall allow the same charters in all their points, in pleas before them and in judgments; that is to wit, the Great Charter of Liberties as the common law, and the Charter of the Forest according to the assize of the forest, for the improvement of our people.

ART. 2. And we will that, if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices or by other ministers of ours that hold plea before them against the points of the charters, it shall be undone and holden for nought.

ARTS. 3-4.⁴

¹ *Carta de foresta regis Henrici III* of 12 February 1225.

² Here follow the names of the witnesses to the number of 65: 1 archbishop, 11 bishops, 20 abbots, the chief justice, 8 earls, the constable and 23 nobles.

³ *Carta confirmation regis Edwardi I* [25 Edward I]. The translation given here is based upon the French text and English translation in *The Statutes: Second Revised Edition*, vol. 1 (London, 1888), pp. 53-56.

⁴ Repealed by the *Statute Law Revision Act* of 1888 [50 & 51 Victoria, c. 59].

ART. 5. And forasmuch as divers people of our realm are in : that the aids and tasks which they have hitherto given to us towr our wars and other business, of their own grant and their own g will, howsoever they were made, might turn to a bondage to them to their heirs, because they might be at another time found in rolls, and so likewise the prizes taken throughout the realm by ministers in our name, we have granted for us and our heirs that shall not draw such aids, tasks or prizes into a custom, for any th that hath been done heretofore or that may be found by roll or in other manner.

ART. 6. Moreover, we have granted, for us and our heirs, as wel archbishops, bishops, abbots and priors and other folk of H Church, as also to earls and barons and to all the commonalty of land, that for no business from henceforth we shall take of our re such manner of aids, tasks or prizes, except by the common ass of all the realm and for the common profit thereof, saving the anci aids and prizes due and accustomed.

ART 7. And forasmuch as the majority of the commonalty of realm find themselves sore grieved with the maletolts of wools, tha to wit, a toll of forty shillings for every sack of wool, and have m petitions to us to release the same, we at their requests have fully leased it and have granted that we will not take such thing nor other without their common assent and their good will, saving to and our heirs the custom of wools, skins and leather, granted bel by the commonalty of the realm aforesaid. In witness of wl things we have caused these our letters to be made patents.

Witness Edward our son at London the tenth day of October, twenty-fifth year of our reign.

And be it remembered that this same Charter, in the same ten word for word, was sealed in Flanders under the King's Great S that is to say, at Ghent the fifth day of November, the twenty-f year of the reign of our aforesaid lord the King, and sent into E land.

STATUTUM DE TALLAGIO NON CONCEDENDO OF 1297.¹

ARTICLE 1. No tallage or aid shall be laid or levied by us or heirs in our realm without the good will and assent of the a

¹ This document, cited by Walter of Hemingford under the name of *Articuli inae Magna Charta*, is not found in the authentic collections of the time. It is nevert cited as a statute in Article 1 of the *Petition of Right* (see below, p. 245), and w decided by the judges in 1637. The translation given here is based upon the Latin and English translation in *The Statutes: Second Revised Edition*, vol. 1 (London, 1 pp. 56-57.

bishops, bishops and other prelates, earls, barons, knights, burgesses and other freemen of our realm.

ART. 2. No officer of ours or of our heirs shall take corn, wool, leather or any other goods of any manner of person without the good will and assent of the party to whom the goods belonged.

ART. 3. Nothing shall be taken from a sack of wool in the name or by occasion of maletolt.

ART. 4. We will and grant, for us and our heirs, that all clerks and laymen of our realm shall have all their laws, liberties and free customs as largely and wholly as they have used to have the same at any time when they had them best and most fully. And if any statutes have been made by us or our predecessors, or any customs brought in contrary to them or any manner of article contained in this present Charter, we will and grant that such manner of statutes and customs shall be void and null forevermore.

ARTS. 5-6.¹

PETITION OF RIGHT OF 7 JUNE 1628.²

TO THE KING'S MOST EXCELLENT MAJESTY.

ARTICLE 1. Humbly show unto our Sovereign Lord the King, the Lords Spiritual and Temporal, and Commons in Parliament assembled, that whereas it is declared and enacted by a statute made in the time of the reign of King Edward the First, commonly called *Statutum de tallagio non concedendo*, that no tallage or aid shall be laid or levied by the King or his heirs in this realm without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses, and other the freemen of the commonality of his realm; and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted that from thenceforth no person shall be compelled to make any loans to the King against his will, because such loans were against reason and the franchise of the land; and by other laws of this realm it is provided that none should be charged by any charge or imposition, called a benovolence, nor by such like charge: by which, the statutes before-mentioned and other the good laws and statutes of this realm, our subjects have inherited this freedom, that they should not be

¹ Article 5 grants pardon to different members of the aristocracy who had rebelled against the royal power. Article 6 contains measures to assure the publication and execution of the statute.

² *The Petition Exhibited to his Majesty by the Lords Spirituall and Temporall and Commons, in this present Parliament assembled, concerning divers Rights and Liberties of the Subjects, with the Kings Majesties Royall Answer thereunto in full Parliament (13 Charles I, c. 11).* The text given here is reprinted (in modern orthography) from *The Statutes: Second Revision Edition*, vol. 1 (London, 1888), pp. 585-588.

compelled to contribute to any tax, tallage, aid, or other like charge, not set by common consent in Parliament:

ART. 2. Yet nevertheless, of late divers commissions directed to sundry commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled and required to lend certain sums of money unto your Majesty, and many of them, upon their refusal so to do, have had an oath administered unto them, not warrantable by the laws or statutes of this realm, and have been constrained to become bound to make appearance and give attendance before your Privy Council and in other places, and others of them have been therefore imprisoned, confined, and sundry other ways molested and disquieted: and divers other charges have been laid and levied upon your people in several counties, by Lord Lieutenants, deputy lieutenants, commissioners for musters, justices of peace and others, by command or direction from your Majesty or your Privy Council, against the laws and free customs of this realm.

ART. 3. And whereas also by the statute called, "The Great Charter of the Liberties of England,"¹ it is declared and enacted, that no free-man may be taken or imprisoned or be disseised of his freehold or liberties, or his free customs, or be outlawed or exiled, or in any manner destroyed, but by the lawful judgment of his peers, or by the law of the land:

ART. 4. And in the eight and twentieth year of the reign of King Edward the Third, it was declared and enacted by authority of Parliament that no man, of what estate or condition that he be, should be put out of his lands or tenements, nor taken, nor imprisoned, nor disherited, nor put to death, without being brought to answer by due process of law:

ART. 5. Nevertheless, against the tenor of the said statutes and other the good laws and statutes of your realm to that end provided, divers of your subjects have of late been imprisoned without any cause showed, and when for their deliverance they were brought before your justices by your Majesty's writs of *habeas corpus*, there to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your Majesty's special command, signified by the lords of your Privy Council, and yet were returned back to several prisons without being charged with anything to which they might make answer according to the law.

ART. 6. And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm and the inhabitants against their wills have been compelled to receive them

¹ See above, p. 240.

o their houses, and there to suffer them to sojourn, against the
 us and customs of this realm, and to the great grievance and vexa-
 n of the people:

ART. 7. And whereas also by authority of Parliament, in the five
 d twentieth year of the reign of King Edward the Third, it is
 clared and enacted that no man shall be forejudged of life or limb
 ainst the form of the Great Charter and the law of the land; and
 the said Great Charter and other the laws and statutes of this
 ur realm, no man ought to be adjudged to death, but by the laws
 tablished in this your realm either by the customs of the same realm
 by Acts of Parliament: and whereas no offender of what kind
 ever is exempted from the proceedings to be used and punishments
 be inflicted by the laws and statutes of this your realm; never-
 e less of late divers commissions under your Majesty's Great Seal
 ave issued forth, by which certain persons have been assigned and
 ppointed commissioners with power and authority to proceed within
 e land, according to the justice of martial law against such soldiers
 nd mariners, or other dissolute persons joining with them, as should
 mmit any murder, robbery, felony, mutiny, or other outrage or mis-
 emeanor whatsoever, and by such summary course and order as is
 reeable to martial law and is used in armies in time of war, to
 roceed to the trial and condemnation of such offenders, and them
 cause to be executed and put to death, according to the law martial.

By pretext whereof, some of your Majesty's subjects have been by
 me of the said commissioners put to death, when and where, if by
 e laws and statutes of the land they had deserved death, by the
 me laws and statutes also they might, and by no other ought to
 ave been, adjudged and executed.

And also sundry grievous offenders by colour thereof, claiming an
 temptation, have escaped the punishments due to them by the laws
 nd statutes of this your realm, by reason that divers of your officers
 nd ministers of justice have unjustly refused, or forborne to pro-
 eed against such offenders according to the same laws and statutes,
 pon pretence that the said offenders were punishable only by mar-
 ial law, and by authority of such commissions as aforesaid; which
 ommissions, and all other of like nature, are wholly and directly
 ontrary to the said laws and statutes of this your realm.

ART. 8. They do therefore humbly pray your most excellent Maj-
 sty, that no man hereafter be compelled to make or yield any gift,
 an, benevolence, tax, or such like charge, without common consent
 y Act of Parliament; and that none be called to make answer, or
 ke such oath, or to give attendance, or be confined, or otherwise
 otested or disquieted concerning the same, or for refusal thereof;
 nd that no freeman, in any such manner as in before-mentioned, be

imprisoned or detained; and that your Majesty will be pleased remove the said soldiers and mariners, and that your people may not be so burdened in time to come; and that the aforesaid commissions for proceeding by martial law, may be revoked and annulled and that hereafter no commissions of like nature may issue forth to any person or persons whatsoever, to be executed as aforesaid, let by colour of them any of your Majesty's subjects be destroyed or put to death, contrary to the laws and franchise of the land.

All which they most humbly pray of your most excellent Majesty as their rights and liberties according to the laws and statutes of this realm; and that your Majesty would also vouchsafe to declare, that the awards, doings and proceedings to the prejudice of your people, in any of the premises, shall not be drawn hereafter into consequence or example; and that your Majesty would be also graciously pleased, for the further comfort and safety of your people, to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you, according to the laws and statutes of this realm, as they tender the honour of your Majesty, and the prosperity of this kingdom.¹

HABEAS CORPUS ACT OF 1679.²

ARTICLE 1. Whereas great delays have been used by sheriffs, gaolers, and other officers, to whose custody any of the King's subjects have been committed for criminal or supposed criminal matters, in making returns of writs of *habeas corpus* to them directed, by standing out an *alias* and *pluries habeas corpus*, and sometimes more, and by other shifts to avoid their yielding obedience to such writs, contrary to their duty and the known laws of the land, whereby many of the King's subjects have been and hereafter may be long detained in prison, in such cases where by law they are bailable, to their great charge and vexation. For the prevention whereof, and the more speedy relief of all persons imprisoned for any such criminal or supposed criminal matters, be it enacted by the King's most excel-

¹ This Petition was read in Parliament on 2 June 1628, together with the King's answer as follows:

"The King willeth that right be done according to the laws and customs of the realm and that the statutes be put in due execution, that his subjects may have no cause to complain of any wrong or oppressions, contrary to their just rights and liberties, to the preservation whereof he holds himself as well obliged as of his prerogative."

This reply not being considered clear enough, Parliament requested another. On 7 June the King appeared in person and pronounced the following French formula, *Soit droit fait come est désiré*, which, according to usage, signified assent pure and simple to the terms of the petition.

² An Act for the better securing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas [31 Charles II, c. 2]. The text given here is reprinted (in modern orthography) from *The Statutes: Second Revised Edition*, vol. 1 (London 1888), pp. 672-680.

at Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority thereof, that whensoever any person or persons shall bring any *habeas corpus* directed unto any sheriff, sheriffs, gaoler, minister, or other person whatsoever, for any person in his or their custody, and the said writ shall be served upon the said officer, or left at the gaol or prison with any of the under-officers, under-keepers or deputy of the said officers or keepers, that the said officer or officers, his or their under-officers, under-keepers or deputies, shall, within three days after the service thereof as aforesaid (unless the commitment aforesaid were for treason or felony, plainly and specially expressed in the warrant of commitment), upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the judge or court that awarded the same, and endorsed upon the said writ, not exceeding twelve pence per mile, and upon security given by his own bond to pay the charges of carrying back the prisoner, if he shall be remanded by the court or judge to which he shall be brought according to the true intent of his present Act, and that he will not make any escape by the way, make return of such writ; and bring or cause to be brought the body of the party so committed or restrained, unto or before the Lord Chancellor, or Lord Keeper of the Great Seal of England for the time being, or the judges or barons of the said court from whence the said writ shall issue, or unto and before such other person or persons before whom the said writ is made returnable, according to the command thereof; and shall then likewise certify the true causes of his detainer or imprisonment, unless the commitment of the said party be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be residing; and if beyond the distance of twenty miles, and not above one hundred miles, then within the space of ten days, and if beyond the distance of one hundred miles, then within the space of twenty days, after such the delivery aforesaid, and no longer.

ART. 2. And to the intent that no sheriff, gaoler or other officer may pretend ignorance of the import of any such writ, be it enacted by the authority aforesaid that all such writs shall be marked in this manner, *per statutum tricesimo primo Caroli secundi regis*, and shall be signed by the person that awards the same; and if any person or persons shall be or stand committed or detained as aforesaid, for any crime, unless for treason or felony plainly expressed in the warrant of commitment, in the vacation-time, and out of term, it shall and may be lawful to and for the person or persons so committed or detained (other than persons convict or in execution) by legal process, or any one on his or their behalf, to appeal or complain

to the Lord Chancellor or Lord Keeper, or any one of his Majesty's justices, either of the one bench or of the other, or the barons of the exchequer of the degree of the coif; and the said Lord Chancellor, Lord Keeper, justices or barons or any of them, upon view of the copy or copies of the warrant or warrants of commitment and detainer, or otherwise upon oath made that such copy or copies were denied to be given by such person or persons in whose custody the prisoner or prisoners is or are detained, are hereby authorized, and required, upon request made in writing by such person or persons or any on his, her or their behalf, attested and subscribed by two witnesses who were present at the delivery of the same, to award and grant an *habeas corpus* under the seal of such court whereof he shall then be one of the judges, to be directed to the officer or officers in whose custody the party so committed or detained shall be, returnable immediate before the said Lord Chancellor or Lord Keeper, or such justice, baron or any other justice or baron of the degree of the coif of any of the said courts; and upon service thereof as aforesaid, the officer or officers, his or their underofficer or under-officers, under-keeper or under-keepers, or deputy, in whose custody the party is so committed or detained, shall within the times respectively before limited, bring such prisoner or prisoners before the said Lord Chancellor or Lord Keeper, or such justices, barons or one of them, before whom the said writ is made returnable, and in case of his absence before any of them, with the return of such writ, and the true causes of the commitment and detainer; and thereupon within two days after the party shall be brought before them, the said Lord Chancellor or Lord Keeper, or such justice or baron before whom the prisoner shall be brought as aforesaid, shall discharge the said prisoner from his imprisonment, taking his or their recognizance, with one or more surety or sureties, in any sum according to their discretions, having regard to the quality of the prisoner and nature of the offence, for his or their appearance in the court of king's bench the term following, or at the next assizes, sessions, or general gaol-delivery of and for such county, city, or place where the commitment was, or where the offence was committed, or in such other court where the said offence is properly cognizable, as the case shall require, and then shall certify the said writ with the return thereof, and the said recognizance or recognizances into the said court where such appearance is to be made; unless it shall appear unto the said Lord Chancellor or Lord Keeper, or justice or justices, or baron or barons, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said justices or barons,

some justice or justices of the peace, for such matters or offences for the which by the law the prisoner is not bailable.

ART. 3. Provided always, and be it enacted that if any person shall have willfully neglected, by the space of two whole terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such person so willfully neglecting shall not have any *habeas corpus* to be granted in vacation-time, in pursuance of this act.

ART. 4. And if any officer or officers, his or their underofficer or underofficers, under-keeper or under-keepers, or deputy, shall neglect or refuse to make the returns aforesaid, or to bring the body or bodies of the prisoner or prisoners according to the command of the said writ, within the respective times aforesaid, or upon demand made by the prisoner or person in his behalf, shall refuse to deliver, or within the space of six hours after demand shall not deliver, to the person so demanding, a true copy of the warrant or warrants of commitment and detainer of such prisoner, which he and they are hereby required to deliver accordingly; all and every the head goalers and keepers of such prisons, and such other person in whose custody the prisoner shall be detained, shall for the first offence forfeit to the prisoner or party grieved the sum of one hundred pounds, and for the second offence the sum of two hundred pounds, and shall and is hereby made incapable to hold or execute his said office, the said penalties to be recovered by the prisoner or party grieved, his executors or administrators, against such offender, his executors or administrators, by any action of debt, suit, bill, plaint, or information, in any of the King's courts at Westminster, wherein no essoin, protection, privilege, injunction, wager of law, or stay of prosecution by *non vult ulterius prosequi*, or otherwise, shall be admitted or allowed, or any more than one imparlance, and any recovery or judgment at the suit of any party grieved shall be a sufficient conviction for the first offence, and any after recovery or judgment, at the suit of a party grieved for any offence after the first judgment, shall be a sufficient conviction to bring the officers or person within the said penalty for the second offence.

ART. 5. And for the prevention of unjust vexation by reiterated commitments for the same offense, be it enacted by the authority aforesaid that no person or persons, which shall be delivered or set at large upon any *habeas corpus*, shall at any time hereafter be again imprisoned or committed for the same offence by any person or persons whatsoever, other than by the legal order and process of such court wherein he or they shall be bound by recognizance to appear, or other court having jurisdiction of the cause; and if any other person or persons shall knowingly contrary to this act recommit or imprison, or knowingly procure or cause to be recommitted or imprisoned, for the same offence or pretended offence, any person

or persons delivered or set at large as aforesaid, or be known aiding or assisting therein, then he or they shall forfeit to the prisoner or party grieved the sum of five hundred pounds: colourable pretence or variation in the warrant or warrants of commitment notwithstanding to be recovered as aforesaid.

ART. 6. Provided always that if any person or persons shall be committed for high treason or felony, plainly and specially expressed in the warrant of commitment, upon his prayer or petition in open court the first week of the term, or first day of the sessions of oyer and terminer or general gaol-delivery, to be brought to his trial, and shall not be indicted some time in the next term, sessions of oyer and terminer or general gaol-delivery, after such commitment, it shall nevertheless be lawful to and for the judges of the court of King's bench and justices of oyer and terminer or general gaol-delivery, and they are hereby required, upon motion to them made in open court the day of the term, sessions or gaol-delivery, either by the prisoner or any one in his behalf, to set at liberty the prisoner upon bail, until it appear to the judges and justices upon oath made, that the prisoner or persons for the King could not be produced the same term, sessions or general gaol-delivery; and if any person or persons committed as aforesaid, upon his prayer or petition in open court the first week of the term or first day of the sessions of oyer and terminer and general gaol-delivery, to be brought to his trial, shall not be indicted or tried the second term, sessions of oyer and terminer or general gaol-delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged from his imprisonment.

ART. 7. Provided always that nothing in this act shall extend to discharge out of prison any person charged in debt, or other action or with process in any civil cause, but that after he shall be discharged of his imprisonment for such his criminal offence, he shall be kept in custody according to the law, for such other suit.

ART. 8. Provided always that if any person or persons subject to this realm shall be committed to any prison or in custody of any officer or officers whatsoever, for any criminal or supposed criminal matter, that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers, until it be by *habeas corpus* or some other legal writ, or where the prisoner is delivered to the constable or other inferior officer to carry the prisoner to some common gaol, or where any person is sent by order of any judge of assize or justice of the peace to any common workhouse or house of correction, or where the prisoner is removed from one prison or place to another within the same county, in order to his or her trial or discharge in due course of law, or in case of such fire or infection, or other necessity; and if any person or persons shall after such commitment aforesaid make out and sign or cause

sign any warrant or warrants for such removal aforesaid, contrary to this act, as well he that makes or signs of countersigns such warrant or warrants as the officer or officers that obey or execute the same, shall suffer and incur the pains and forfeitures in this act before mentioned, both for the first and second offence respectively, to be recovered in manner aforesaid by the party grieved.

ART. 9. Provided also that it shall and may be lawful, to and for any prisoner and prisoners as aforesaid, to move and obtain his or their *habeas corpus* as well out of the high court of chancery or court of exchequer, as out of the courts of King's bench or common pleas, or either of them, and if the said Lord Chancellor or Lord Keeper, or any judge or judges, baron or barons for the time being, of the degree of the coif, of any of the courts aforesaid, in the vacation-time, upon view of the copy or copies of the warrant or warrants of commitment or detainer, or upon oath made that such copy or copies were denied as aforesaid, shall deny any writ of *habeas corpus* by this act required to be granted, being moved for as aforesaid, they shall severally forfeit to the prisoner or party grieved the sum of five hundred pounds, to be recovered in manner aforesaid.

ART. 10. And an *habeas corpus*, according to the true intent and meaning of this act, may be directed and run into any county palatine, the Cinque Ports, or other privileged places within the Kingdom of England, dominion of Wales, or town of Berwick upon Tweed, and the islands of Jersey or Guernsey, any law or usage to the contrary notwithstanding.

ART. 11. And for preventing illegal imprisonments in prisons beyond the seas, be it further enacted by the authority aforesaid that no subject of this realm that now is, or hereafter shall be, an inhabitant or resiant of this Kingdom of England, dominion of Wales, or town of Berwick upon Tweed, shall or may be sent prisoner into Scotland, Ireland, Jersey, Guernsey, Tangier, or into any parts, garisons, islands or places beyond the seas, which are or at any time hereafter shall be within or without the dominions of his Majesty, his heirs or successors; and that every such imprisonment is hereby enacted and adjudged to be illegal; and that if any of the said subjects now is or hereafter shall be so imprisoned, every such person and persons so imprisoned shall and may for every such imprisonment maintain by virtue of this Act an action or actions of false imprisonment in any of his Majesty's courts of record, against the person or persons by whom he or she shall be so committed, detained, imprisoned, sent prisoner or transported, contrary to the true meaning of this Act, and against all or any person or persons that shall frame, contrive, write, seal or countersign any warrant or writing for such commitment, detainer, imprisonment, or transportation, or shall be advising, aiding or assisting in the same, or any of them; and the

plaintiff in every such action shall have judgment to recover his treble costs, besides damages, which damages so to be given shall not be less than five hundred pounds; in which action no delay, stay or stop of proceeding by rule, order or command, nor no injunction, protection or privilege whatsoever, nor any more than one imparlance shall be allowed, excepting such rule of the court wherein the action shall depend, made in open court, as shall be thought in justice necessary, for special cause to be expressed in the said rule; and the person or persons who shall knowingly frame, contrive, write, seal or counter-sign any warrant for such commitment, detainer, or transportation, or shall so commit, detain, imprison or transport any person or persons contrary to this Act, or be any ways advising, aiding or assisting therein, being lawfully convicted thereof, shall be disabled from thenceforth to bear any office of trust or profit within the said realm of England, dominion of Wales, or town of Berwick upon Tweed, or any of the islands, territories or dominions thereunto belonging; and shall incur and sustain the pains, penalties and forfeitures limited, ordained and provided in and by the Statute of Provision and *Praemunire* made in the sixteenth year of King Richard the Second; and be incapable of any pardon from the King, his heirs or successors, of the said forfeitures, losses, or disabilities, or any of them.

ART. 12. Provided always that nothing in this Act shall extend to give benefit to any person who shall by contract in writing agree with any merchant or owner of any plantation, or other person whatsoever, to be transported to any parts beyond the seas, and receive earnest upon such agreement, although that afterwards such person shall renounce such contract.

ART. 13. Provided always that if any person or persons lawfully convicted of any felony shall in open court pray to be transported beyond the seas, and the court shall think fit to leave him or them in prison for that purpose, such person or persons may be transported into any parts beyond the seas, this Act or anything therein contained to the contrary notwithstanding.

ART. 14.¹

ART. 15. Provided also that if any person or persons at any time residing in this realm shall have committed any capital offence in Scotland or Ireland, or any of the islands, or foreign plantations of the King, his heirs or successors, where he or she ought to be tried for such offence, such person or persons may be sent to such place there to receive such trial in such manner as the same might have been used before the making of this Act, anything herein contained to the contrary notwithstanding.

ART. 16. Provided also that no person or persons shall be sued, impleaded, molested or troubled for any offence against this Act, u

¹ Repealed by the *Statute Law Revision Act* of 1863.

less the party offending be sued or impleaded for the same within two years at the most after such time wherein the offence shall be committed. in case the party grieved shall not be then in prison: and if he shall be in prison, then within the space of two years after the decease of the person imprisoned, or his or her delivery out of prison, which shall first happen.

ART. 17. And to the intent no person may avoid his trial at the assizes or general gaol-delivery, by procuring his removal before the assizes, at such time as he can not be brought back to receive his trial there, be it enacted that after the assizes proclaimed for that county where the prisoner is detained, no person shall be removed from the common gaol upon any *habeas corpus* granted in pursuance of this Act, but upon any such *habeas corpus* shall be brought before the judge of assize in open court, who is thereupon to do what to justice shall appertain.

ART. 18. Provided nevertheless that, after the assizes are ended, any person or persons detained, may have his or her *habeas corpus* according to the direction and intention of this Act.

ART. 19. And if any information, suit or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the form of this law, it shall be lawful for such defendants to plead the general issue, that they are not guilty, or that they owe nothing, and to give such special matter in evidence to the jury that shall try the same, which matter being pleaded had been good and sufficient matter in law to have discharged the said defendant or defendants against the said information, suit or action, and the said matter shall be then as available to him or them, to all intents and purposes, as if he or they had sufficiently pleaded, set forth or alleged the same matter in bar or discharge of such information, suit or action.

ART. 20. And because many times persons charged with petty treason or felony, or as accessories thereunto, are committed upon suspicion only, whereupon they are bailable, or not, according as the circumstances making out that suspicion are more or less weighty, which are best known to the justices of peace that committed the persons, and have the examinations before them, or to other justices of the peace in the county, be it therefore enacted, that where any person shall appear to be committed by any judge or justice of the peace, and charged as accessory before the fact, to any petty treason or felony, or upon suspicion thereof, or with suspicion of petty treason or felony, which petty treason or felony shall be plainly and specially expressed in the warrant of commitment, that such person shall not be removed or bailed by virtue of this Act, or in any other manner than they might have been before the making of this Act.

BILL OF RIGHTS OF 13 FEBRUARY 1689.¹

ARTICLE 1. Whereas the Lords Spiritual and Temporal, and Commons, assembled at Westminster, lawfully, fully and freely representing all the estates of the people of this realm, did, upon the thirteenth day of February, in the year of our Lord one thousand six hundred eighty-eight, present unto their Majesties, then called and known by the names and style of William and Mary, Prince and Princess of Orange, being present in their proper persons, a certain declaration in writing, made by the said Lords and Commons, in the words following, viz.:²

All which are utterly and directly contrary to the known laws and statutes and freedom of this realm.

And whereas the said late King James the Second having abdicated the government, and the throne being thereby vacant, His Highness the Prince of Orange (whom it hath pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords Spiritual and Temporal, and diverse principal persons of the Commons) cause letters to be written to the Lords Spiritual and Temporal, both Protestants, and other letters to the several counties, cities, universities, boroughs, and Cinque Ports, for the choosing of such persons to represent them, as were of right to be sent to Parliament, to meet and sit at Westminster upon the two and twentieth day of January in this year one thousand six hundred eighty and eight, in order to such an establishment, as that their religion, laws and liberties might not again be in danger of being subverted; upon which letters elections have been accordingly made.

And thereupon the said Lords Spiritual and Temporal, and Commons, pursuant to their respective letters and elections, being now assembled in a full and free representation of this nation, taking into their most serious consideration the best means for attaining the ends aforesaid, do in the first place (as their ancestors in like cases have usually done), for the vindicating and asserting their ancient rights and liberties, declare:

That the pretended power of suspending of laws, or the execution of laws, by regal authority, without consent of Parliament, is illegal.

¹ *An Act declaring the Rights and Liberties of the Subject and settling the Succession of the Crown* [1 William and Mary, sess. 2, c. 2]. The text given here is reprinted in modern orthography) from *The Statutes: Second Revised Edition*, vol. 1 (London, 1832), pp. 690-696.

² Here follows the enumeration of twelve complaints of Parliament against the government of the late King James II. These are taken up almost word for word in reply to the several complaints below.

That the pretended power of dispensing with laws, or the execution of laws, by regal authority, as it hath been assumed and exercised of late, is illegal.

That the commission for erecting the late Court of Commissioners for ecclesiastical causes, and all other commissions and courts of like nature, are illegal and pernicious.

That levying money for or to the use of the Crown, by pretence of prerogative, without grant of Parliament, for longer time or in other manner than the same is or shall be granted, is illegal.

That it is the right of the subjects to petition the King, and all commitments and prosecutions for such petitioning are illegal.

That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law.

That the subjects which are Protestants may have arms for their defence suitable to their conditions, and as allowed by law.

That election of members of Parliament ought to be free.

That the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

That excessive bail ought not to be required, nor excessive fines imposed; nor cruel and unusual punishments inflicted.

That jurors ought to be duly impanelled and returned, and jurors which pass upon men in trials for high treason ought to be freeholders.¹

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

And that for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliament ought to be held frequently.

And they do claim, demand and insist upon all and singular the premises, as their undoubted rights and liberties; and that no declarations, judgments, doings or proceedings, to the prejudice of the people in any of the said premises, ought in any wise to be drawn hereafter into consequence or example. To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange, as being the only means for obtaining a full redress and remedy therein. Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him, and will still preserve them from the violation of their rights, which they have here asserted, and from all other attempts upon their religion, rights, and liberties.

¹ "And jurors . . . freeholders." Repealed by 6 George IV, c. 50, s. 62.

The said Lords Spiritual and Temporal, and Commons, assembled at Westminster, do resolve that William and Mary, Prince and Princess of Orange, be and be declared King and Queen of England, France¹ and Ireland, and the dominions thereunto belonging.²

Upon which their said Majesties did accept the Crown and royal dignity of the Kingdoms of England, France, and Ireland, and the dominions thereunto belonging, according to the resolution and desire of the said Lords and Commons contained in the said declaration. And thereupon their Majesties were pleased that the said Lords Spiritual and Temporal, and Commons, being the two houses of Parliament, should continue to sit, and with their Majesties' royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this Kingdom, so that the same for the future might not be in danger again of being subverted; to which the said Lords Spiritual and Temporal, and Commons, did agree and proceed to act accordingly. Now in pursuance of the premises, the said Lords Spiritual and Temporal, and Commons, in Parliament assembled, for the ratifying, confirming and establishing the said declaration, and the articles, clauses, matters and things therein contained, by the force of a law made in due form by authority of Parliament, do pray that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the said declaration, are the true, ancient and indubitable rights and liberties of the people of this Kingdom, and so shall be esteemed, allowed, adjudged, deemed and taken to be, and that all and every the particulars aforesaid shall be firmly and strictly holden and observed, as they are expressed in the said declaration; and all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.³ All which their Majesties are contented and pleased shall be declared, enacted and established by authority of this present Parliament, and shall stand remain and be the law of this realm forever; and the same are by their said Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in Parliament assembled.

¹ The title of King of France was borne by the King of England up to 1801.

² Here follow provisions governing the order of succession to the throne, the suppression of the former oaths of allegiance and supremacy and the creation of two new formulas of oaths (now virtually repealed) intended to replace them.

³ Here follow provisions (now merely matters of historical interest) concerning the recognition of the legitimate rights of William and Mary to the Crown of England the establishment of the order of succession to the throne, the eventual exclusion from the throne of all the members of the royal family who might profess the "Popish" religion or whose spouse might profess this religion, the obligation imposed upon every one called to succession to the throne to repeat audibly on the day of coronation the declaration mentioned in 30 *Charles II*, entitled "An Act for the more effectual preserving the King's person and government, by disabling Papists from sitting in either House of Parliament."

and by the authority of the same, declared, enacted or established accordingly.

ART. 2. And from and after this present session of Parliament, no dispensation by *non obstante* of or to any statute, or any part thereof, shall be allowed, but the same shall be held void and of no effect, except a dispensation be allowed of in such statute, and except in such cases as shall be specially provided for by one or more bill or bills to be passed during this present session of Parliament.

ART. 3.¹

ACT OF SETTLEMENT OF 12 JUNE 1701.²

ARTICLE 1.³

ART. 2.⁴

ART. 3. And whereas it is requisite and necessary that some further provision be made for securing our religion, laws and liberties, from and after the death of his Majesty and the Princess Anne of Denmark, and in default of issue of the body of the said princess and of his Majesty respectively; be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in Parliament assembled, and by the authority of the same:

That whosoever shall hereafter come to the possession of this crown shall join in communion with the Church of England as by law established.

That in case the crown and imperial dignity of this realm shall hereafter come to any person, not being a native of this Kingdom of England, this nation be not obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England, without the consent of Parliament.⁵

That no pardon under the Great Seal of England be pleadable to an impeachment by the commons in Parliament.

ART. 4. And whereas the laws of England are the birthright of the people thereof, and all the Kings and Queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws, and all their officers and ministers

¹ Repealed by the *Statute Law Revision Act of 1867* [30 & 31 Victoria, c. 59].

² An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject [12 & 13 William III, c. 2]. The text given here is reprinted (in modern orthography) from *The Statutes: Second Revised Edition*, vol. 1 (London, 1889), p. 758-762.

³ Establishment of the eventual rights of Princess Sophia, electrix of Hanover, to succeed to the crown of England, in default of Princess Anne of Denmark and her line.

⁴ Exclusion of those who profess the "Popish" religion from eligibility to succeed to the throne.

⁵ Here follow four paragraphs, subsequently repealed.

ought to serve them respectively according to the same; the Lords Spiritual and Temporal and Commons do therefore humbly pray that all the laws and statutes of this realm for security established religion and the rights and liberties of the people and all other laws and statutes of the same now in force may be confirmed and confirmed, and the same are by his Majesty, by and the advice and consent of the said Lords Spiritual and Temporal Commons, and by authority of the same, ratified and confirmed accordingly.

GREECE.

a long period of Turkish domination and a few stormy a republic, Greece was recognized as an independent monarch on 22 January/3 February 1830 by the Conference of London. By the Treaty of London of 25 April/7 May 1832,² the newly accepted Prince Otto of Bavaria as King. The latter without a Constitution for eleven years, the first six of which under a regency, but a military revolution (3/15 September) caused him to convene a constituent Assembly at Athens, which eventually (4/16 March 1844) adopted a Constitution³ modeled on the French Charter of 14 August 1830⁴ and the Belgian Constitution of 7 February 1831⁵ and admitting the system of bicameral assembly. The King took the oath to this Constitution on 17 March.

A revolution of 10/22 October 1862, which overthrew King Otto, transferred the throne to the son of George of Denmark on 6 June 1863. The following year a general revision of the Constitution was made (29 January) by the National Assembly which had chosen the new King. The King took the oath to this Constitution on 16/28 November. The Senate was abolished and the legislative power entrusted (22 January) to the King and a single house. A law of 25 November 1865 abrogated Articles 83–86 concerning the Council of State.

In 1911 the Constitution was modified and a substitute for a second chamber was adopted in the reestablishment of the Council of State. This Constitution came into force 1/14 June 1911. From all indications, it is probable that the Constitution will be retained in the near future.⁷

text in *British and Foreign State Papers*, 17: pp. 191–195.
and English texts in parallel columns in *British and Foreign State Papers*, 17: pp. 191–195.
—41; English text in HERTSLET, *Map of Europe by Treaty*, vol. 1 (London, 1803–899).

text in *British and Foreign State Papers*, 32: pp. 989–1000.

text in *British and Foreign State Papers*, 17: pp. 1013–1018.

text in *British and Foreign State Papers*, 18: pp. 1052–1065.

translation in *British and Foreign State Papers*, 56: pp. 572–584, and F. R. T. P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 17; and German translation in PAUL POSENER, *Die Staatsverfassungen des 19. Jahrhunderts* (Charlottenburg, 1909), pp. 589–599.

introductory paragraphs are based upon DARESTE, *op. cit.*, pp. 299–300, and *p. cit.*, pp. 587–589. Cf. also *The Statesman's Yearbook* (1917 and 1918).

CONSTITUTION OF 1/14 JUNE 1911.¹

[PREAMBLE.]

In the Name of the Holy, Consubstantial and Indivisible Trinity, the Second National Assembly of the Greeks in Athens decrees:

RELIGION.

ARTICLE 1. The Established Religion in Greece is that of the Eastern Orthodox Church of Christ. Every other known religion is tolerated and the forms of its worship are carried out without hindrance under the protection of the laws, proselytism and all other interference with the established religion being prohibited.

ART. 2. The Orthodox Church of Greece, acknowledging for its Head our Lord Jesus Christ, is indissolubly united in doctrine with the Great Church in Constantinople and with every other Church of Christ holding the same doctrine, steadfastly observing, as they do, the holy apostolic and synodal canons and holy traditions; it is autocephalous, exercising its sovereign rights independently of every other Church, and it is administered by a Holy Synod of Bishops. The ministers of all recognized religions are subjected to the same superintendence on the part of the State as the ministers of the established religion.

The text of the Holy Scriptures is maintained unchanged; the rendering thereof in another form of language without the previous sanction of the Great Church of Christ in Constantinople also is absolutely prohibited.

THE PUBLIC RIGHTS OF THE GREEKS.

ART. 3. The Greeks are equal in the eye of the law and contribute without distinction to the public burdens according to their ability; and only Greek citizens are admissible to all public employments, saving the special exceptions introduced by special laws. Citizens are those who have acquired or shall acquire the qualifications of citizenship in accordance with the laws of the State. Titles of nobility or distinction are neither conferred on Greek citizens nor recognized by them.

ART. 4. Personal liberty is inviolable; no man may be prosecuted, arrested, imprisoned or otherwise confined, except when and as the law provides.

¹ Translation taken from a manuscript belonging to the U. S. Department of State. English translation also in the *British and Foreign State Papers*, 108: pp. 482-497.

Art. 5. Except when taken in the act, no man may be arrested or imprisoned without a judicial warrant stating the reason, which shall be served at the moment of arrest or detention. He who is arrested on being taken in the act or on a warrant of arrest must be brought without delay before the competent examining judge within 24 hours of his arrest at the latest, or, if the arrest occurred outside the limits of the district of the examining judge, within the absolutely necessary for his conveyance. The examining judge shall, within at the most three days of his appearance, either release the person arrested or deliver a warrant for his imprisonment. In the event of either of these terms having passed without such action, every jailer or other person, civil or military, charged with the detention of the arrested person, must release him instantly. Those who violate the above provisions are punished for illegal detention and are obliged to make good any loss sustained by the injured party and further to indemnify him in a sum of money fixed at the discretion of the judge but never less than ten drachmas per day.

Art. 6. In case of political offenses, the Council of the Judges of the Court of Misdemeanors can always, on demand of the person arrested, allow his release under bail fixed by a judicial order, against which an appeal is allowed. In case of these offenses, pre-trial detention can never be prolonged beyond three months.

Art. 7. No punishment may be inflicted unless previously fixed by law.

Art. 8. No one may be withdrawn without his consent from the jurisdiction of the judge assigned to him by law.

Art. 9. Each individual or many together possess the right, conforming with the laws of the realm, to address petitions in writing to the public authorities, who are bound to take prompt action and to furnish the petitioner with an answer in writing, in accordance with the provisions of the law. Only after the final decision of the authority to whom the petition was addressed, and approval of that authority, may inquiry be made as to responsibility on the part of the petitioner for offenses contained in the petition.

Art. 10. The Greeks have the right to meet quietly and unarmed; but at public assemblages the police may be present. Assemblages in the open air may be prohibited, if danger to public security is apprehended from them.

Art. 11. The Greeks possess the right of association, conforming with the laws of the State, and in no case can the laws subject this right to previous permission on the part of the government.

An association can not be dissolved for infraction of the provisions of the law except by a judicial decision.

ART. 12. The dwelling is inviolable. Domiciliary visits can only be made when and as the law directs.

Offenders against these provisions are punished for abuse of authority and are bound fully to indemnify the injured party and further to compensate him in a sum of money fixed at the discretion of the Law Court but never less than one hundred drachmas.

ART. 13. In Greece human beings may neither be bought nor sold; a slave, purchased or otherwise, of every race and religion, is free from the time he sets foot on Greek soil.

ART. 14. Everyone may publish his opinions by speech, by writing or by printing, observing the laws of the realm. The press is free. Censorship and every other preventive measure is prohibited. The seizure of newspapers and other printed treatises whether before or after publication is likewise prohibited. Exceptionally seizure after publication is permitted on account of insult to the Christian religion or to the person of the King, or, in cases determined by law, on account of indecent publications manifestly offending public decency; but in such case, within 24 hours, after the seizure, both the public prosecutor must submit the case to the Judicial Council and the Council must decide whether the seizure is to be maintained or withdrawn; otherwise the seizure is *de jure* raised. Appeal is allowed against the order only to the publisher of the article seized and not to the public prosecutor.

The publication of news or communications relating to military movements or to the fortifications of the country may be prohibited in such manner as the law shall direct, under threat of seizure and criminal prosecution. In case of seizure the provisions above stipulated are applied.

Both the publisher of a newspaper and the author of a reprehensible publication relating to private life, in addition to the penalty imposed according to the terms of the criminal law, are civilly and conjointly liable fully to redress any loss occasioned and to indemnify the injured party in a sum of money fixed at the discretion of the judge but never less than 200 drachmas.

Only Greek citizens are allowed to publish newspapers.

ART. 15. No oath may be imposed except in the form provided by law.

ART. 16. Education, which is under the supreme supervision of the State, is conducted at the State expense.

Elementary education is obligatory for all, and is given free by the State.

Private persons and corporations are allowed to establish private schools conducted in accordance with the Constitution and the laws of the realm.

rt. 17. No one may be deprived of his property except for the public benefit duly proven, when and as the law directs and always with indemnification. The indemnification is always fixed through the judicial channel. In case of urgency it may be provisionally fixed specially after the beneficiary has been heard or summoned and the beneficiary may be obliged, at the discretion of the judge, to give a proportionate guarantee in the manner defined by law. Until the full or provisional indemnification fixed is paid, all the rights of the proprietor are maintained intact, dispossession not being perceived.

Special laws settle the details respecting the proprietorship and disposal of mines, quarries, archaeological treasures, and mineral running waters.

rt. 18. Torture and general confiscation are prohibited. Civil death is abolished. The penalty of death for political offenses, even when complicated by other crimes, is abolished.

rt. 19. No previous permission of the administrative authority is required to prosecute public or municipal officials for their punishable acts connected with their service, except in the case of ministers to which special provisions are laid down.

rt. 20. The secrecy of letters is absolutely inviolable.

THE FORM OF GOVERNMENT.

rt. 21. All powers have their source in the nation and are exercised in the manner appointed by the Constitution.

rt. 22. The legislative power is exercised by the King and the House of Representatives.

rt. 23. The right of proposing laws belongs to the House of Representatives and the King, who exercises it through the ministers.

rt. 24. No proposal regarding an increase of the budgetary expenditure by salary or pension, or in general for the advantage of a person, may originate from the House of Representatives.

rt. 25. A project of law rejected by either of the two Estates possessing the legislative power may not be again introduced in the same parliamentary session.

rt. 26. The authentic interpretation of the laws rests with the executive power.

rt. 27. The executive power belongs to the King, and is exercised through the responsible ministers appointed by him.

rt. 28. The judicial power is exercised by the courts of law, and judicial decisions are executed in the King's name.

THE KING.

ART. 29. The person of the King is irresponsible and inviolable; his ministers are responsible.

ART. 30. No act of the King is valid, nor is it executed, if it be not countersigned by the competent minister, who is rendered responsible by his signature alone; in case of a change of the whole Ministry, if no one of the retiring ministers consent to countersign the decree dismissing the old and appointing the new Ministry, these are signed by the president of the new Ministry after taking the oath on appointment by the King.

ART. 31. The King appoints and dismisses his ministers.

ART. 32. The King is the highest authority of the State. He commands the land and sea forces, declares war, concludes treaties of peace, alliance and commerce, and communicates them to the House of Representatives with the necessary explanations as soon as the interest and the security of the State allow it. Nevertheless treaties of commerce and any others granting concessions concerning which according to other provisions of the present Constitution nothing can be determined without a law, or which lay a burden upon Greeks personally are not valid without the consent of the House of Representatives.

ART. 33. No cession or exchange of territory can take place without a law. The secret articles of a treaty can never subvert the open articles.

ART. 34. The King confers military and naval rank in accordance with the law; he appoints and dismisses public officials also according to the law, saving the exceptions determined by law, but he can not appoint an official to an office not [already] established by law.

ART. 35. The King issues the necessary decrees for the execution of the laws; but he can never delay the operation, nor except any one from the execution of the law.

ART. 36. The King sanctions and publishes the laws voted by the House of Representatives. A law not published within two months of the conclusion of the session is null.

ART. 37. The King convokes the House of Representatives in ordinary session once a year, and in extraordinary session as often as he deems expedient; he opens and closes each session either in person or by deputy, and he has the right of dissolving the House of Representatives, but the decree of dissolution, countersigned by the Ministry, must at the same time include the convocation of the electors within 45 days and of the House of Representatives within three months.

ART. 38. The King has the right, once only, to suspend the labors of a legislative session, either by postponing the opening or by interrupting the continuance of those labors.

he suspension can not exceed 30 days, nor can it be renewed during the session without the consent of the House.

ART. 39. The King has the right to pardon, commute and diminish punishments awarded by the courts of law, saving in the case of provisions concerning ministers; he has moreover the right to grant amnesty only in the case of political crimes under the responsibility of the Ministry.

ART. 40. The King has the right to confer the established decorations in accordance with the provisions of the law relative to this object.

ART. 41. The King has the right to coin money according to law.

ART. 42. The Royal Civil List is fixed by law; the annual Civil List of King George I, in which is included the sum voted by the late Ottoman Parliament, is fixed at 1,125,000 drachmas. This amount may be increased after ten years by a law.¹

ART. 43. King George after signing the present Constitution will take the following oath before the present National Assembly:

swear in the name of the Holy, Consubstantial and Indivisible Trinity to defend the established religion of the Greeks, to guard the Constitution and the rights of the Greek nation, and to preserve and protect the national independence and integrity of the Greek State.

ART. 44. The King has no other powers than those expressly assigned to him by the Constitution and the special laws consistent with it.

SUCCESSION AND REGENCY.

ART. 45. The Greek Crown and its constitutional rights are hereditary, and pass to the legitimate and lawful descendants of King George I in direct line by order of primogeniture, preference being given to the males.

ART. 46. If no successor exist in accordance with the above stipulations, the King appoints one with the consent of the House of Representatives, convoked for the purpose, [and deciding] by the vote of two thirds of the total number of representatives and by open voting.

ART. 47. Every successor to the Greek throne must profess the religion of the Eastern Orthodox Church of Christ.

ART. 48. The crowns of Greece and of any other State whatever shall never be united on the same head.

ART. 49. The King attains his majority on completing the eighteenth year of his age. Before ascending the throne he takes the oath comprised in Article 43 in the presence of the ministers, of the Holy Synod, of the representatives [present] in the capital and of

¹ This amount was increased about two years later to 2,000,000 drachmas.

the other higher authorities. The King convokes the House of Representatives within two months at the most, and repeats the oath before the representatives.

ART. 50. In case of the King's death, if the successor be a minor or absent, and there be no Regent already appointed, the House of Representatives, even if its term have expired or it have been dissolved, assembles without summons on the tenth day at latest after the King's death. The royal constitutional power is exercised by the Ministerial Council under in its own responsibility until the Regent have taken the oath or the successor have arrived. A special law will regulate the details concerning the Regency.

ART. 51. If, when the King dies, his successor be a minor, the House of Representatives, even if its terms have expired or it have been dissolved, assembles to choose a guardian; but a guardian is only chosen when none such is named in the will of the deceased King, or when the infant successor has not a mother remaining in her widowhood, who is then called as of right to the guardianship of her child. The guardians of the infant King, whether appointed by will or chosen by the House of Representatives, must be a Greek citizen of the Eastern faith.

ART. 52. In case of a vacancy of the throne the House of Representatives, even if its term have expired or it have been dissolved, provisionally elects a Greek citizen of the Eastern faith as Regent, and the Ministerial Council exercises under its own responsibility the royal constitutional power in the name of the nation until the Regent have taken the oath; within two months at the latest representatives equal in number to the members of the House are elected by the citizens, and these, meeting in one body with the House of Representatives, choose a King by a majority of two thirds of the whole number and by open voting.

ART. 53. If the King owing to sickness deem necessary the establishment of a Regency, he convokes the House with this object and invites through the Ministry [the passing of] a special law to this effect. If the King is not in a state to reign, the Ministerial Council convokes the House of Representatives, and the House when it meets, if it recognizes the necessity by a majority of three fourths of the votes, chooses a Regent and, if necessary, a guardian, by open voting.

A special law will settle the details concerning a Regency in case of the absence of the King from the Kingdom.

THE HOUSE OF REPRESENTATIVES.

ART. 54. The House of Representatives assembles annually by inherent right on the 1st of October [old style] in regular session for

the business of the year unless the King convoke it for this business earlier in conformity with Article 37.

The duration of each regular session may not be less than three months, in which the period of suspension according to Article 38 is not computed.

ART. 55. The House of Representatives sits in public in the Parliament House, but may debate with closed doors on the demand of the members if it be so decided in secret sitting by a majority, and afterwards it decides whether the debate on the same subject ought to be resumed in public sitting.

ART. 56. The House of Representatives can not debate without the presence of at least one third of the total number of its members, nor can it take any decision without an absolute majority of the members present, which majority can in no case be less than four fifths of the minimum number of the quorum.

In case of an equality of votes, the motion is rejected.

ART. 57. No project of law is adopted unless it have been discussed and voted by the House of Representatives, once in principle and twice article by article and as a whole, on three different days.

After the vote in principle, the project under discussion is sent to a committee of the House, if it has not been previously so sent or if it has not been elaborated by the Council of State; and after it has been revised by the committee, or the period fixed for that purpose has expired, the debate article by article follows in different sittings not less than two days apart from each other. But in exceptional circumstances the House may, declaring the project urgent, abstain from sending it to a committee and may reduce to one day the interval between the two discussions article by article.

If amendments are admitted at the time of the last discussion, the vote of the project as a whole is postponed until what has been voted has been printed and distributed as amended.

The voting of judicial codes previously prepared by special committees constituted by special laws may take place by means of a particular law sanctioning the said codes as a whole. The project of such a law may not be declared urgent.

The codification of existing provisions by simple rearrangement, or the entire reënactment of repealed laws, except laws relating to taxation may be effected in the same manner.

ART. 58. No one without a summons may present himself before the House of Representatives to make any statement verbally or in writing, but petitions are presented by a member or deposited at the office. The House has the right to send the petition addressed to it to the ministers, who are bound to give explanations whenever they are demanded; the House can also appoint from among its members committees to examine the subjects.

ART. 59. No tax can be imposed or collected without a law. Exceptiionally, in the case of imposition or increase of an import duty, the collection of it is permitted from the date of the presentation to the House of the project concerning it, upon the express condition of the publication of the law at latest within ten days of the close of the parliamentary session.

ART. 60. In its annual ordinary session the House of Representatives votes for the ensuing financial year the strength of the military and naval forces, the conscription for the army and navy, and the budget, and decides concerning the final accounts. All the revenue and expenditure of the State must be shown in the budget and in the final accounts.

The budget is brought into the House within the first two months of the session, and after being examined by a special committee of members, it is voted in one reading chapter by chapter and article by article, in sections to be settled in the regulations of the House, and on four different days, but a division by roll call is to be taken on the total estimates of each ministry.

The final account of the last financial year is brought into the House within a year at latest after its close. It is examined by a special committee of members, and is voted by the House in the manner to be settled in its regulations.

ART. 61. No salary, pension, allowance or remuneration is inscribed in the budget of the State, or is granted, without an organic or other special law.

ART. 62. A representative can not be prosecuted, nor in any way questioned on account of an opinion or vote given by him in the exercise of his duty as a representative.

ART. 63. During the parliamentary session a representative can not be prosecuted, arrested or imprisoned without the leave of the body; such leave is not required in case of discovery *in flagrante delicto*. Personal detention can not be exercised against a representative during the parliamentary session, four weeks before its beginning and three after its termination.

If a representative chance to be undergoing personal detention he is released without four weeks before the beginning of the session.

ART. 64. Before beginning their duties the representatives take the following oath in the Parliament House and in public sittings:

I swear in the name of the Holy, Consubstantial and Indivisible Trinity to observe fidelity to the country and to the Constitution and the laws of the State and conscientiously to fulfill my duties.

Representatives belonging to other religions, instead of the invocation "in the name of the Holy, Consubstantial and Indivisible Trinity," swear according to the formula of their own religion.

ART. 65. The House of Representatives determines by its regulations the manner of fulfilling its duties.

ART. 66. The House of Representatives is composed of representatives chosen by the citizens having the right to elect by direct, universal and secret suffrage.

The parliamentary elections are ordered and carried out simultaneously throughout the realm.

ART. 67. The representatives represent the nation and not only the electoral district by which they are returned.

ART. 68. The number of representatives from each electoral district is fixed by law in proportion to the population. But the total number of representatives can never be less than 150.

ART. 69. The representatives are elected for four consecutive years, commencing from the date of the general elections; and at the end of the quadrennial parliamentary period the holding of general parliamentary elections is ordered. Within 45 days from the holding of these elections the House of Representatives is obligatorily summoned to an ordinary session only if the late House have not fulfilled, for the year in which the elections were held, the stipulations of Article 60.

A representative's seat vacated during the last year of the period is not filled, provided that the number of vacancies do not exceed one fourth of the total number of representatives.

ART. 70. To be elected representative it is necessary to be a Greek citizen, to have completed the 25th year and to be lawfully qualified to elect.

A representative who loses these qualifications is *ipso facto* deprived of the character of representative. Should doubt arise upon this point the House of Representatives decides.

ART. 71. Salaried public servants, military men on the active list, mayors, notaries, custodians of mortgages and deeds of transfer, and process-servers can not be elected representatives unless they have resigned their functions before the day of nomination of candidates.

The duties of a representative are incompatible with the business of a manager or other representative, director or salaried legal adviser or employee of mercantile societies or undertakings enjoying special privileges or a regular subvention in virtue of a special law.

Those who belong to one of those categories must within eight days of the validation of their election declare their choice between the position of representative and their business as above; in default of such declaration they *ipso facto* lose the position of representative.

The incompatibility of other business also with the character of a representative may be established by law.

ART. 72. Representatives undertaking any one of the duties or businesses referred to in the preceding article *ipso facto* lose the character of a representative.

ART. 73. The examination and the trial of parliamentary elections against the validity of which objections are raised referring either to electoral irregularities in the course of them or to the absence of qualifications/ (in the elected candidate) are referred to a special tribunal chosen by lot from among all the members of the Areopagus [Court of Cassation] and of the Courts of Appeal of the realm. The drawing of lots is effected by the Areopagus in public sitting, and the presidency of the special tribunal is occupied by the member who takes precedence by rank or seniority. The details with regard to its functions and to its entire procedure will be settled by a law.

Resignation of the representative character is the right of the representative.

ART. 74. The House of Representatives elects from among its members at the beginning of each parliamentary session its president, its vice-president and its secretaries.

ART. 75. Representatives resident at Athens and the Piraeus receive as compensation from the public treasury at the beginning of every quarter 800 drachmas [\$160]; the rest 1,000 drachmas [\$200]

An additional allowance of 250 drachmas a month is granted to the regular president of the House of Representatives for contingent expenses.

In no circumstances is any other compensation granted to representatives for the fulfilment of their duties.

ART. 76. In case of absence of a representative for more than five sittings per month without the leave of the House, during an ordinary or extraordinary session, 20 drachmas for each sitting are retained out of the above compensation.

THE MINISTERS.

ART. 77. No member of the royal family can be appointed minister.

ART. 78. The ministers have free entrance to the sittings of the House of Representatives, and are listened to whenever they demand a hearing; but they only vote if they are members. The House can require the presence of ministers.

ART. 79. In no case can an order from the King, whether written or verbal, release the ministers from responsibility.

ART. 80. The House of Representatives has the right to impeach ministers, in accordance with the laws concerning ministerial responsibility, before the tribunal *ad hoc* presided over by the president of

the Areopagus [Court of Cassation] and composed of 12 judges drawn by lot by the president of the House in public sitting from among all the members and president of the Courts of the Areopagus and of Appeal already appointed before the impeachment, in the manner more specifically determined by the law.

ART. 81. The King can pardon a minister, condemned according to the above provisions, only with the consent of the House of Representatives.

THE COUNCIL OF STATE.

ART. 82. To the province of the Council of State belong particularly:

1. The elaboration of projects of law and of decrees containing regulations.

2. The decision of differences, concerning a contested administrative act, which are submitted to it by law.

3. The invalidation on petition, for infringement of the law, of acts of the administrative authorities, in accordance with details more particularly fixed in the law.

4. The supreme disciplinary jurisdiction over irremovable administrative officials according to the laws dealing with that subject.

In cases provided for in Paragraphs 2, 3 and 4, Articles 92 and 93 of the Constitution apply.

ART. 83. The Council of Ministers decides what projects of law shall be entrusted to the Council of State for elaboration before they be represented to the House of Representatives. The House may refer to the Council of State the projects submitted to it.

The budget is never referred to the Council of State.

ART. 84. Decrees containing regulations are issued after opinion given by the Council of State, which pronounces within a suitable period fixed by the competent minister; should this period pass without any action being taken, the decree is issued without [the Council's] opinion.

The opinion of the Council of State is not binding on the minister.

ART. 85. The members of the Council of State are ordinary and extraordinary. The number of them is fixed by law, but that of ordinary members can not be less than 7 nor more than 15, nor that of extraordinary members more than 10. The extraordinary members are chosen from among the superior public servants of the State other than judicial, at an additional salary fixed by the law.

ART. 86. The ordinary members of the Council of State are appointed by royal decree on the proposal of the Ministerial Council. The term of service is ten years, and those who have completed their

service may be reappointed. But on the first establishment of the Council of State the term of service, as regards one third to be chosen by lot, shall be considered to be at an end on the completion of the eighth year of its activity as regards the second third on the completion of the tenth, and as regards the last third on the completion of the twelfth year.

The duties of the ordinary members of the Council of State are incompatible with the duties of any other public, communal or ecclesiastical official with the exception of those of professor of legal and political sciences in the National University and those of minister; but the simultaneous exercise of the functions of minister and councillor of State is never permitted.

A special law shall regulate the qualifications of the ordinary members of the Council of State, the conditions of their retirement during their term of service, the details of an auxiliary staff, and everything relating to the organization and working of the Council of State.

THE JUDICIAL POWER.

ART. 87. Justice is administered by judges appointed by the King according to the law.

ART. 88. The members of the Areopagus [Court of Cassation] Courts of Appeal and Courts of First Instance are appointed for life, and the public prosecutors, their substitutes, justices of the peace, special magistrates, clerks and assistant clerks of the court and of the public prosecutors' offices, notaries and custodians of mortgages and deeds of transfer are irremovable, so long as their respective service exist. Judicial functionaries enjoying life tenure or irremovability can not be dismissed without a judicial sentence consequent either upon a criminal conviction, upon disciplinary faults, or upon illness or incapacity, attested in such manner as the law shall direct, and the provisions of Articles 92 and 93 being observed.

They retire obligatorily from the service on the completion of the limit of age fixed by law, which for the members of the Areopagus can not be higher than the 75th nor lower than the 65th year, and for all other salaried judicial officials not higher than the 70th nor lower than the 60th year.

Until the passing of a new special law concerning an age limit all the above salaried judicial officials retire on the completion of their 65th year.

ART. 89. The qualifications of judicial officials in general are fixed by law.

Art. 90. Judicial officials, except assistant clerks, appointed for life or irremovable are placed, transferred and promoted by a Supreme Judicial Council, composed of members of the Areopagus in such manner as is directed by law.

Promotion to the posts of president, vice-president and public prosecutor of the Areopagus is not within the province of the Supreme Judicial Council.

Art. 91. Judicial committees and extraordinary tribunals under whatsoever name are not allowed to be set up.

A special law shall regulate, for the eventuality of a state of war or of a general mobilization on account of external dangers, the details of the temporary total or partial suspension of Articles 5, 6, 10, 11, 12, 14, 20 and 95 of the Constitution, of the proclamation of a state of siege and of the establishment and working of exceptional tribunals. The said law can not be modified during the course of the labors of the House of Representatives summoned for the purpose of putting it into operation. It is put into operation as regards all or some only of its provisions, throughout the whole realm or part of it, by a royal decree issued with the consent of the House of Representatives.

If the House is not in session the law may be put into operation without its consent by a royal decree countersigned by the whole Ministerial Council. By the same royal decree, under penalty of its invalidity, the House of Representatives is summoned to meet within five days, even if its term have expired or if it have been dissolved, in order that by an act of its own it may decide as to the maintenance or the withdrawal of the provisions of the royal decree. The parliamentary immunity of Article 63 commences from the publication of the royal decree.

The application of the above royal decree is extended, in the case of war, no longer than the termination of it, and in the case of mobilization it is automatically raised after two months if in the meantime its validity have not been extended by further consent of the House of Representatives.

Art. 92. The sittings of the courts of law are public, except when publicity would be injurious to good morals or public order, but then the courts must issue a decision to that effect.

Art. 93. Every judgment must be specially reasoned and must be pronounced in public sitting.

Art. 94. The jury system is retained.

Art. 95. Political offenses are tried by juries, as well as press offenses, when they do not concern private life.

ART. 96. A judge is not allowed to accept additional salaried service, except that of professor in the University.

ART. 97. The details concerning military or naval courts martial, piracy, barratry and prize courts are regulated by special laws.

THE COURT OF ACCOUNTS.

ART. 98. The members and assessors of the Court of Accounts are appointed for life and are only dismissed under the conditions of Article 88, but they obligatorily retire from the service upon attaining the age limit fixed by the law, which can not be higher than the 75th nor lower than the 65th year. The qualifications of the members and assessors of the Court of Accounts are fixed by law.

GENERAL PROVISIONS.

ART. 99. Without a law foreign troops can not be received into the Greek service, nor remain in the State nor pass through it.

ART. 100. Only when and as the law directs can military and naval men be deprived of their rank, honors and pensions.

ART. 101. Contested administrative cases continue to be carried before the ordinary tribunals, by which they are judged as urgent, excepting those questions for which special laws set up administrative tribunals by which the provisions of Articles 92 and 93 are to be observed. Pending the publication of special laws the existing laws concerning administrative jurisdiction remain in force.

Petitions of final appeal against the decisions of the administrative tribunals belong exclusively to the jurisdiction of the Council of State from the moment when it shall have begun to perform its functions. Conflicts [of jurisdiction] between judicial and administrative authorities or between the Council of State and administrative authorities are judged by the Areopagus, until a special law shall have established to try them a mixed tribunal composed of equal numbers of the Areopagus and ordinary Councillors of State, under the presidency of the Minister of Justice or his substitute designated by the law.

ART. 102. The qualifications of administrative officials in general are fixed by law.

When the Council of State shall have begun to perform its functions, the above officials are irremovable from the date of their definitive appointment so long as their respective services exist except in the cases of dismissal in virtue of a judicial decision, they are not transferred without an affirmative opinion, nor are they discharged or degraded without a special decision of a council organized according to law, and composed, as regards at least two thirds of its members, of irremovable officials. Against such a

sion recourse to the Council of State is permitted in the manner more particularly laid down in the law.

Exceptions from the qualifications and the irremovability [of public officials] may be made in the cases of envoys and diplomatic agents, consuls general, secretaries general of ministries, private secretaries to ministers, prefects, the Royal Commissioner to the Holy Synod, and the Director General of Posts and Telegraphs.

ART. 103. Charges of wrongful administration of justice against members of the Areopagus, life members of the Court of Accounts and ordinary Councillors of State are tried before a special tribunal of five members, composed in such manner as the law directs [of persons] chosen by lot from among those three bodies, from advocates members of the Supreme Disciplinary Council, and from the professors of the faculty of law of the University, one member being taken from each body.

Before this tribunal are also brought all preparatory proceedings; and no other permission is required.

The same tribunal may also be empowered by law to try charges of wrongful administration of justice against judges of first instance, judges of appeal and public prosecutors.

ART. 104. The disciplinary authority over the members of the Court of Accounts, the Areopagus, and the Council of State is also exercised by a Council composed of two members of each of those bodies and two professors of the faculty of law of the University, all chosen by lot, under the presidency of the Minister of Justice.

As occasion requires, those of the members of the Council are left out who belong to the body upon whose proceedings the Council is called upon to pronounce, whether the whole of it or some only of its members are implicated.

ART. 105. The election of the municipal authorities is effected by universal suffrage.

ART. 106. Every Greek, capable of bearing arms, is under obligation to contribute towards the defense of the country according to the terms of the laws.

ART. 107. The official language of the State is that in which the texts of the Constitution and of the Greek legislation are drawn up; any attempt to corrupt it is prohibited.

ART. 108. The revision of the whole of the Constitution is not permitted.

Ten years after this provision has taken effect a revision of the non-fundamental provisions of the Constitution is permitted, whenever the House of Representatives, through two thirds of the total number of its members, demands it by a special act, particularly defining the provisions to be revised, and voted on two separate occasions distant not less than one month from one another.

The revision having been decided on, the existing House of Representatives is *ipso facto* dissolved and a new one is convoked, which during its first session takes a decision upon the articles to be revised, by an absolute majority of the total number of its members.

ART. 109. All laws and decrees, in so far as they are in contradiction with the present Constitution, are repealed.

ART. 110. The present Constitution takes effect as soon as it has been signed by the King, and the Ministerial Council must publish it in the *Official Gazette* within 24 hours of the signature.

Any revision of the non-fundamental provisions of the Constitution which is voted, is promulgated and published through the *Official Gazette* within ten days of its being voted by the House of Representatives, and is put into operation by a special resolution [of the House].

ART. 111. The preservation of the present Constitution is committed to the patriotism of the Greeks.

GUATEMALA.

Guatemala was one of the five nations forming the Central American Federation, and under the Federal Constitution of 22 November 1824¹ was given a separate Constitution. After the dissolution of the federal agreement, Rafael Carrera organized a separate government for the State of Guatemala and caused to be sanctioned by an assembly in the month of October, 1851, a "Constitutive Act of the Republic of Guatemala," which was amended on 29 January 1885. After the death of Carrera (14 April 1865) two attempts were made at constitutional reform, but neither accomplished lasting results. The present Constitution dates from 11 December 1879; it was modified in 1885, 1887, 1889, 1893, 1897 and 1903.²

CONSTITUTION OF 11 DECEMBER 1879.³

[PREAMBLE.]

We, the representatives of the sovereign people of Guatemala, duly called together and assembled in sufficient number, do hereby decree and sanction the fundamental laws which, united in single body, form the following Constitution of the Republic.

TITLE I.—THE NATION AND ITS INHABITANTS.

ARTICLE 1. Guatemala is a free, sovereign and independent nation. The exercise of its sovereignty is delegated to the authorities established by the Constitution.

ART. 2. Guatemala shall maintain and cultivate intimate family and reciprocal relations with the other Republics of Central America. And whenever the Central American nationality should be again brought into existence in a stable, just, popular and suitable manner, the Republic of Guatemala shall be ready to become a part thereof.

¹ English translation in the *British and Foreign State Papers*, 18: pp. 725-747.

² This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (8d edition, Paris, 1910), vol. II, pp. 561-562.

³ Spanish text and English translation of this Constitution and Transitory Provisions in parallel columns in J. I. RODRIGUEZ, *American Constitutions* (Washington, 1906), vol. I, pp. 236-258. English translation in the *British and Foreign State Papers*, 70: p. 860-879, and 78: pp. 1007-1012, respectively. The translation given here is based upon the one in RODRIGUEZ.

ART. 3. The supreme power of the nation is republican, democratic and representative, and is divided, as to its exercise, into the legislative, executive and judicial powers; it shall be entirely independent in the exercise of its functions.

ART. 4. Guatemalans are divided into native and naturalized.

ART. 5. The following are native Guatemalans:

1. All those born or who may be born hereafter in the territory of the Republic, no matter what the nationality of their fathers may be, with the exception of the children of diplomatic agents.

2. Children of Guatemalan fathers or illegitimate children of Guatemalan mothers born in a foreign country, from the moment in which they establish their residence in the Republic; and even without this condition when, according to the laws of the place of birth, the nationality of Guatemala corresponds to them, or when, having the right to choose, they adopt Guatemalan citizenship.

ART. 6. Natives of the other Central American Republics who declare before competent authority their desire to become Guatemalans shall be considered native Guatemalans.

ART. 7. The following are naturalized Guatemalans:

1. Spanish-Americans domiciled in the Republic, if they do not desire to retain their own nationality.

2. All other foreigners who have been naturalized in conformity with previous laws.

3. Those who obtain naturalization papers according to law.

ART. 8. The following are citizens:

1. Guatemalans over 21 years of age who know how to read and write, or who have an income, industry, trade or profession providing them with means of subsistence.

2. All those over 18 years of age who belong to the army.

3. All those over 18 years of age who have received a literary degree or title in a national establishment.

ART. 9. The rights inherent to citizenship are:

1. The electoral right.

2. The right to aspire to public office when the law requires citizenship as a qualification therefor.

ART. 10. When the law requires citizenship as a qualification for the exercise of any public function, the said function may be entrusted to foreigners who have all the other qualifications required by the same law; by the fact of their acceptance of the position they shall become naturalized citizens.

ART. 11. Citizenship is suspended, lost or recovered according to law.

ART. 12. The following are the duties of Guatemalans:

1. To serve and defend the country.

2. To obey the laws, respect the authorities and comply with the regulations of the police.

3. To contribute in the manner established by law to meet the public expenses.

ART. 13. Foreigners, from the moment of their arrival in the territory of the Republic, are strictly bound to respect the authorities and observe the laws, and acquire the right to be protected by them.

ART. 14. Neither Guatemalans nor foreigners shall have in any case the power to claim from the government indemnification for damages or injuries done to their persons or property by revolutionists.

ART. 15. Foreigners are bound to comply with the police laws and regulations, and to pay the local taxes, as well as all other taxes levied or to be levied hereafter, whether heavier or lighter, on commerce, industry, profession or property owned or possessed.

TITLE II.—GUARANTEES.

ART. 16. The authorities of the Republic are established to protect the inhabitants in the enjoyment of their rights, which are, liberty, equality, security of person, of honor and of property.

ART. 17. All power is originally vested in the nation. Officials are not the owners but the depositaries of the authority, subject to the law and never superior to it, and always responsible for their official conduct.

ART. 18. Primary instruction is compulsory; the instruction furnished by the nation is laical and gratuitous.

ART. 19. All persons are free to enter, remain in and leave the territory of the Republic, except in the cases determined by law.

ART. 20. Industry is free. The author or inventor enjoys the ownership of his work or invention for a period of time not exceeding 15 years, but literary property is perpetual.

The executive may grant concessions for a term not exceeding 10 years to those who introduce or establish new industries in the Republic.

ART. 21. All persons may freely dispose of their property, provided that by so doing they do not violate any law.

Entailments of property, however, and every endowment (*institución*) in favor of dead hands, are absolutely forbidden, excepting only those made in favor of charitable establishments.

ART. 22. The inhabitants of the Republic, whether nationals or foreigners, may direct their petitions to the authorities.

Armed forces shall not deliberate or exercise the right of petition.

ART. 23. The inhabitants of the Republic have free access to the courts of the country to exercise their actions in the form prescribed

by the laws. Foreigners shall not resort to diplomatic action in case of denial of justice. For this purpose, the fact that a judgment obtained is not favorable to the claimant shall not be stood as a denial of justice.

ART. 24. The exercise of all religions, without preference for any particular one, is guaranteed in the interior of the temple. This free exercise shall not be extended to the performance of acts subversive of or practices inconsistent with peace and public order, nor shall it give right to oppose the fulfillment of civil and political obligations.

ART. 25. The right of association and of peaceful assembly without arms is guaranteed, but the establishment of conventual corporations and all kinds of monastical institutions or associations are forbidden.

ART. 26. The expression of ideas, verbally, in writing, or through the press, without previous censorship, is free. Anyone abusing this right shall be responsible for it before the law. A jury shall have cognizance of all offenses and crimes committed through the press.

ART. 27. All the inhabitants of the Republic are free to receive the instruction which they may prefer, in establishments supported with funds of the nation.

ART. 28. Property is inviolable; its expropriation shall only be ordered upon legal proof that the public interests are such as to require it, thereby, and in this case the owner, before his property is expropriated, shall receive its just value in cash.

In case of war the indemnity need not be previous.

ART. 29. Services not to be rendered gratuitously under a law, or under a judicial decision founded on law, shall be justly remunerated.

ART. 30. No one shall be detained or imprisoned except by a warrant of crime or offense. The law determines the cases and the form for proceeding to detention or arrest.

ART. 31. Every detained person shall be examined within 48 hours; the detention shall not exceed five days; and within this period the authority which ordered it shall either give the reason for the warrant of imprisonment or discharge the prisoner.

ART. 32. No one shall be kept in solitary confinement except in special cases, for the time and with the formalities established by law. No one shall be subject to restrictions not indispensable for his keeping.

ART. 33. No warrant of imprisonment shall be issued without summary information, previously obtained, that an offense punishable with corporal or pecuniary penalty has been committed, without present reasons legally sufficient for believing that the detained person is the delinquent.

ART. 34. The Constitution recognizes the right of *habeas corpus*, or let the prisoner be produced.¹

ART. 35. No one shall be compelled to testify against himself, his consort, ascendants, descendants, or brothers or sisters.

ART. 36. The defense of persons or rights before the courts is inviolable, and no one shall be tried by special tribunals.

ART. 37. The correspondence of every person and his private papers are inviolable. Only by order of the competent judge shall the former be detained and opened or the latter seized, in the cases and with the formalities required by law.

ART. 38. Domicile is inviolable. The law determines the formalities and the cases in which the domicile can be rightfully entered.

ART. 39. When the territory of the nation is invaded or attacked, or when public tranquility is in any way threatened, the President, with the advice of the Council of Ministers, shall suspend, by means of a decree, the individual guarantees described in this title, and he shall then state whether the suspension embraces the whole Republic or only one or more departments of the same; he shall also report the fact to the Assembly at the next session.

TITLE III.—THE LEGISLATIVE POWER.

SECTION I.—ORGANIZATION OF THE LEGISLATIVE POWER.

ART. 40. The legislative power is vested in the National Assembly.

ART. 41. The National Assembly shall meet every year on 1 March, even if not called to convene. Its ordinary sessions shall last two months, but this period may be extended a month longer.

ART. 42. The Assembly shall not hold any meeting without the presence of an absolute majority of the members of which it is composed; but the meeting of 15 deputies, at least, shall be sufficient for passing upon credentials and taking suitable measures against the obstacles to a majority in the Assembly.

ART. 43. The Assembly shall hold an extra session whenever it has been convoked by the executive power or the Permanent Committee, and in these cases it shall only discuss the subjects mentioned in the call.

ART. 44. Deputies, from the day of their election, shall enjoy the following prerogatives:

1. Personal immunity from indictment or trial, unless the Assembly previously authorizes the prosecution by declaring that criminal proceedings can be instituted; but they can be arrested in case of *flagrante delicto*.

¹ That is to say, so that the reasons for his detention may be stated. The last clause is merely a free rendering in the vernacular of the Latin law term.

2. Irresponsibility for all their opinions, for the introduction of any legislative measures and for the manner of doing business in the discharge of their duties.

These prerogatives do not authorize arbitrariness or excesses of personal initiative on the part of the deputies.

The rules of the Assembly shall establish the manner of repressing any abuses which may be committed.

ART. 45. After the declaration referred to in § 1 of the foregoing article has been made, the accused parties shall remain subject to the competent judge and suspended from the exercise of the legislative functions, which they shall not exercise unless they are acquitted. If they are condemned, their seats shall remain vacant and new elections shall be ordered to be held.

ART. 46. If the Assembly is not in session, the Permanent Committee shall declare whether or not criminal proceedings shall be instituted against the deputy.

ART. 47. Should any deputy be arrested *flagrante delicto*, he shall be placed immediately at the disposal of the Assembly, or of the Permanent Committee if the Assembly is not in session.

ART. 48. The Assembly shall consist of a deputy for each 20,000 inhabitants or for each fraction thereof exceeding 10,000.

The law shall provide the manner of holding the elections; but without modifying the principle of direct popular election.

ART. 49. To be elected deputy it is required to be in the exercise of the rights of citizenship and to be over 21 years of age.

ART. 50. Contractors of public works or services of any kind, the cost of which is defrayed with State funds, and those who in consequence of the said contracts have pending claims of their own private interest shall be ineligible to be deputies. The secretaries of State shall also be ineligible; as also, for the department or electoral district in which they exercise their functions, political chiefs, military commanders, judges of the first instance, collectors of public revenue and ministers of religion.

ART. 51. Deputies shall remain in the exercise of their functions four years, but the Assembly shall be renewed by halves every two years. For this purpose the Assembly shall, before closing its session of its first constitutional year, decide by lot the deputies who are to go out at the expiration of the first two-year period.

SECTION II.—ATTRIBUTIONS OF THE LEGISLATIVE POWER.

ART. 52. It belongs to the legislative power:

1. To open and close its ordinary and extraordinary sessions.
2. To count the votes for President of the Republic and to proclaim popularly elected the citizen who obtained an absolute majority of votes.

3. To elect the President from among the three candidates who obtained the greatest number of votes, in case there is no popular election because of the absence of an absolute majority of votes.

4. To appoint in the last meetings of each year the designates (*designados*).

5. To give possession [of his office] to the President of the Republic and to receive from him the declaration required by law.

6. To accept or refuse to accept, as it may deem advisable, the resignation of the President of the Republic.

7. To grant or refuse permission to the President of the Republic to absent himself from the territory of Central America.

8. To designate the person who shall act, during his absence, as President of the Republic, when the latter has obtained permission to absent himself from the territory of Central America.

9. To count the votes for president, magistrates and public prosecutors of the courts of justice, whose election shall be popular and direct, and to proclaim elected by the people the citizens who have obtained a plurality of votes.

10. To accept or refuse to accept the resignations of the president, magistrates and public prosecutors of the courts of justice, and designate, if the resignations are accepted, or if the offices become absolutely vacant, the persons who should fill the positions until the completion of the respective constitutional terms of office.

ART. 53. The Assembly also has power to declare whether or not impeachment proceedings shall be instituted against the President of the Republic, members of the cabinet, members of the Council of State, magistrates, public prosecutors of the superior courts and solicitors of the government.

The law of responsibilities determines the form of the impeachment proceedings and the tribunal which shall take cognizance of the case.

ART. 54. The legislative power also has the following attributions:

1. To enact, interpret, amend and repeal the laws which must be observed in all branches of the administration.

2. To fix every year the expenses of the public administration, approving or disapproving the estimates submitted by the executive power.

3. To levy the ordinary taxes and imposts required to cover the expenses of the government and the claims approved.

4. To approve or disapprove every year the account which the executive must submit of the funds disbursed in the public administration, and of any unforeseen expenses which may have been necessary.

5. To levy extraordinary taxes when the necessity so demands.

6. To authorize the executive power to enter into contracts and negotiate loans, either at home or abroad, and to pledge for their payment the revenues of the nation.

7. To examine the claims against the public treasury for credits not included in the estimates, and, if they are approved by the Assembly, to set aside funds for their amortization.

8. To fix the fineness, weight and denominations of the national currency, and to fix likewise the system of weights and measures.

9. To approve or disapprove, before their ratification, the treaties and conventions concluded by the executive with other countries.

10. To grant pensions and public honors for great services rendered to the nation.

11. To authorize the executive to send forth such laws as, owing to their extent, can not be despatched by the legislative power, to which, however, a report thereon should be submitted in due time.

12. To grant extraordinary faculties to the executive, when necessity or the interest of the Republic so demands, specifying in the decree what are the faculties granted.

13. To approve or disapprove the acts done by the executive power in the exercise of the faculties granted to him.

14. To appoint brigadier generals and generals of division upon nomination of the executive, accompanied for this purpose by the record of services of the nominee.

15. To declare war and approve treaties of peace.

16. To grant general amnesties and pardons when public utility may so demand.

ART. 55. The following attributions also belong to the Assembly:

1. To elect at the opening of the session its own president, vice president and all the other functionaries who under the rules of the Assembly are necessary to complete its organization.

2. To be the judge of the election of its own members and approve or disapprove their credentials.

3. To accept or refuse to accept the resignations of its members and order new elections to be held to fill the places vacant for this or any other reason.

4. To make rules for its internal government.

5. To compel the attendance of absent deputies and punish the offenses, by commission or omission, of those present.

SECTION III.—ENACTMENT AND APPROVAL OF THE LAWS.

ART. 56. Laws may be introduced in the Assembly on the proposal of some one of its members, through the initiative of the executive power or of the judicial power in matters of its competence.

ART. 57. The Assembly, in order to exercise the attributions enumerated in §§ 6 and 7 of Article 52 and § 4 of Article 55, shall

discuss. in three different meetings held on different days, the subject presented to it, and no vote shall be taken until said subject is held in the third meeting to have been sufficiently discussed.

In all the other formalities of proceedings the regulations prescribed by the rules of the Assembly shall be observed.

ART. 58. All bills passed by the Assembly shall be sent for approval to the executive.

ART. 59. The President shall approve the law passed by the Assembly and order it to be promulgated, but if he should find it unsuitable, he shall upon the advice of the Council of Ministers, withhold his approval and return it to the Assembly, within ten days, accompanied with the remarks that he may deem proper. The Assembly shall either reconsider the bill at once, or, if the remarks made by the executive are not accepted, postpone its reconsideration until the session of the next year. In the latter case, if the Assembly ratifies the bill by a two-thirds vote, the executive shall be bound to approve and promulgate the law.

ART. 60. If the executive does not return the bill within ten days to be counted from its despatch, it shall be considered approved and shall be promulgated as law. If the Assembly adjourns before the expiration of the ten days within which the return of the bill was possible, the executive must return it within the first eight days of the ordinary session of the following year.

ART. 61. The acts of the Assembly relating to its internal government, to the qualification of elections and the resignation of those elected, to the permission to prosecute or impeach public officials as set forth in Articles 44 and 53, and all the other provisions of Articles 52 and 55 shall not require the approval of the executive.

SECTION IV.—THE PERMANENT COMMITTEE.

ART. 62. Before closing its sessions the Assembly shall elect seven of its members to form the Permanent Committee, which shall at its first meeting designate its chairman.

ART. 63. The Permanent Committee shall have during the recess of the Assembly the following attributions:

1. To declare whether or not criminal proceedings may be instituted against a member of the Assembly in the cases mentioned in Articles 44 and 53.

2. To take up the unfinished business and put it in shape for proper consideration when the Assembly meets.

3. To call an extra session of the Assembly when the exigencies of the circumstances so demand.

The Permanent Committee shall meet at any time at the call of its chairman.

TITLE IV.—THE EXECUTIVE AND ITS ATTRIBUTIONS.

SECTION I.—ORGANIZATION OF THE EXECUTIVE.

ART. 64. A citizen with the title of "President of the Republic" exercises the executive power, and shall be elected popularly and directly.

ART. 65. To be elected President it is required:

1. To be a native of Guatemala or of any other Republic of Central America.

2. To be over 21 years of age.

3. To be in the enjoyment of the rights of citizenship.

4. To be of the secular estate.¹

ART. 66. The term of office of the President shall be six years.²

ART. 67. The President is responsible to the Assembly for his acts.

ART. 68. The President of the Republic shall turn his office over to the person selected for that purpose by the Assembly, when he, with the permission of the latter, decides to absent himself from the territory of Central America.

ART. 69. Two designates (*designados*), elected by the Assembly, shall fill, in the order of their election, the place of President of the Republic, in the cases set forth by the Constitution.

To be elected *designado* the same qualifications are required as for one elected President of the Republic.

In case of absolute vacancy of the office of President of the Republic, the executive power shall be transmitted to the first *designado*, and, in his default, to the second. In such a case, the *designado* within eight days following the absolute vacancy, shall call for presidential election, to be held within six months to be counted from the date of the call. The election having been held and the Assembly having made the declaration to which §2 of Article 52 refers, the citizen elected shall at once take possession of the office, and his presidential term shall be computed from the fifteenth of March following.

ART. 70. The President of the Republic in taking possession of his office shall make the following solemn declaration:

I declare that I will fulfill with patriotism the office of President, and will observe and cause to be observed faithfully the Constitution of the Republic.

ART. 71. The President of the Republic shall have for the transaction of business the number of secretaries provided by law. The appointment and removal belongs to the President.

¹ That is, not to be an ecclesiastic.

² As amended by the legislative decree of 12 July 1903 which repealed the prohibition of consecutive reelection.

ART. 72. To be a secretary of State it is required to be over 21 years of age and of the secular estate, to be in the exercise of the rights of citizenship, and not to be a contractor of public works, nor to be personally interested in claims arising out of said contracts.

ART. 73. The secretaries of State, in their respective departments, shall authorize the decisions of the President.

All orders and other provisions of the executive power shall be signed and communicated by the secretary of the department to which they belong.

ART. 74. The secretaries of State are jointly responsible with the President for all the acts of the latter authorized by them with their signatures.

ART. 75. The secretaries of State shall, during the first days of the ordinary session of the Assembly, submit a detailed report on the condition of the business of their respective departments.

ART. 76. The secretaries of State may attend the meetings of the Assembly and take part in the deliberations. They are bound to furnish all the information which may be asked of them and to answer to interpellations which may be directed to them upon administration affairs, except in matters which have reference to diplomatic transactions or to pending military operations.

SECTION II.—DUTIES AND ATTRIBUTIONS OF THE EXECUTIVE POWER.

ART. 77. The duties and attributions of the executive power are:

1. To defend the independence and honor of the nation and the inviolability of its territory.
2. To observe and cause to be observed the Constitution and the laws.
3. To see to the prompt and complete administration of justice.
4. To see to the preservation of public order.
5. To render to the functionaries of the judicial power the assistance and force necessary to render their decisions effective.
6. To direct public instruction, create teaching establishments and make rules for those supported by national funds.

It has also the power to exercise supreme inspection over all the schools and other teaching establishments, even when not supported by national funds.

7. To attend to the collection and management of the national revenue, and order it to be disbursed according to law.
8. To appoint secretaries of State, accept their resignations, and separate them from the service.
9. To appoint from among three nominees of the Supreme Court of Justice the judges of first instance.

10. To appoint functionaries of the administrative and military order; to transfer them from one place to another when advisable for the good of the service.

11. To grant military grades up to and including that of colonel.

12. To command the army, organize and distribute it as may be deemed advisable.

13. To raise the force which may be necessary to repel foreign invasion or to prevent or put down domestic insurrections.

14. To appoint ministers plenipotentiary, ministers resident, chargés d'affaires and consuls for the service of the Republic in foreign countries.

15. To receive the ministers and other envoys of other nations and grant the *exequatur* to the patents of foreign consuls.

16. To give passports to the ministers and other envoys of other nations and to withdraw the *exequatur* to the patents of consuls in the cases prescribed by international law.

17. To issue the decrees and rules which may be necessary to facilitate and insure the execution of the laws in all branches of the administration.

18. To suspend, with the advice of the Council of Ministers, the constitutional guarantees, when the public order so demands.

19. To submit to the Assembly, for its approval, the treaties concluded by it.

20. To call the Assembly to convene in extra session, when grave and urgent matters may so require.

21. To approve the laws and promulgate such legislative acts as do not need executive approval.

ART. 78. The President of the Republic shall have power to commute the penalty which may be greater in the general scale of punishment to the penalty immediately inferior thereto, to grant pardons for political offenses, and even for common ones, when public utility may so demand, or when the petitioner has rendered signal services to the nation. A law shall regulate the exercise of this power.

SECTION III.—THE COUNCIL OF STATE.

ART. 79. The President of the Republic shall have a Council of State, consisting of the secretaries of State and nine councilors, five of whom shall be appointed by the Assembly and four by the President of the Republic.

ART. 80. The President of the Republic may appoint temporary councilors during the recess of the Assembly in order to fill the vacancies which may occur.

ART. 81. To be chosen councilor it is required to be over 21 years of age and to be in the exercise of the rights of citizenship.

- r. 82. The councilors shall continue in the exercise of their functions two years.
- r. 83. The attributions of the Council are:
 - . To make rules for its internal government.
 - . To give its opinion to the President of the Republic in all the cases about which he may consult it.
- r. 84. The councilors of State are responsible for the opinions they give by them in opposition to the Constitution and the other laws.

TITLE V.—THE JUDICIAL POWER.

- r. 85. The judicial power is exercised by the judges and tribunals of the Republic; to them belongs the exclusive power of interpreting the laws in civil and criminal cases.
- r. 86. To be elected magistrate or public prosecutor it is necessary to be in the enjoyment of the rights of citizenship, to be over 21 of age, to be a lawyer and of the secular estate.
- r. 87. The functionaries of the superior tribunals of justice and judges of first instance shall continue four years in the exercise of their functions.
- r. 88. The power to render judicial decisions, and to enforce them, belongs exclusively to the tribunals.
- r. 89. The laws shall fix the manner and form according to which the trials shall be conducted.
- r. 90. All the inhabitants of the Republic shall be subject to the procedure of proceedings established by law.
- r. 91. No case shall have more than three instances, and the same judge shall not take cognizance of a case in different instances.
- r. 92. The judges, whatever their rank or category may be, are personally responsible for every violation of law committed by them, in accordance with the responsibility of the judicial power.
- r. 93. The law constituting the judicial power shall establish nothing else concerning the judicial power.

TITLE VI.—THE GOVERNMENT OF THE DEPARTMENTS AND MUNICIPALITIES.

- r. 94. The law divides the national territory into departments in such a manner that the government thereof may be better administered.
- r. 95. The President of the Republic shall appoint, for the government of each department, a political chief whose qualifications and attributions shall be fixed by law.
- r. 96. The law shall organize the municipalities without changing the principle of popular direct election and shall describe the functions belonging to them.

ART. 97. The municipalities shall establish, with the approval of the government, the means which they judge necessary to meet the object of their institution.

ART. 98. The government may, when it deems advisable, or at the request of the municipalities, reform the ordinances of each town and make ordinances for the towns which have none.

TITLE VII.—REFORM OF THE CONSTITUTION.

ART. 99.—The Assembly, by a two-thirds vote, shall have power to order the reform of the Constitution, indicating the article or articles which have to be changed.

ART. 100. The resolution to amend having passed, the executive power shall call a Constituent Assembly, which should meet within the three months following. The resolution mentioned in the preceding article shall be inserted in the call.

ART. 101. The Assembly shall consist of a delegate for each 15,000 inhabitants, and these delegates shall have the same qualifications as are required to be elected deputy.

ART. 102. The ordinary Assembly, as soon as the resolution to reform the Constitution is passed, shall adjourn *sine die*.

ART. 103. The reform having been made, a call shall be issued for the election of deputies for the ordinary legislature.

ART. 104. The present Constitution shall not lose its force and vigor, even when its observance is interrupted by a rebellion.

ART. 105. The amendments made to the Constitution on 23 October 1885 are null and void.

TRANSITORY PROVISIONS.¹

ARTICLE 1. The present amendments to the Constitutional Law shall begin to be in force from the date of their promulgation, when the suspension of the constitutional régime shall also cease.

ART. 2. The power is hereby granted the executive to exercise the attributions set forth in Article 8 of the present law (except those mentioned in §§ 4, 9 and 13) until the day on which the Legislative Assembly meets, to which an account shall be given of the acts committed in the exercise of such attributions.

ART. 3. The provisions of Article 5 of the Constitution shall not prevent the conclusion of the treaties which may now be pending and which were negotiated under the rule of the amendments made in October, 1885.

ART. 4. The suspension of the constitutional régime decreed on 26 June of the present year shall not interrupt the presidential term of General Don MANUEL LISANDRO BARRILLAS, who, in compliance

¹ The Constitution of 1879 was reenacted on 5 November 1887 and these transitory provisions were added. See above, p. 279, notes 2 and 3.

with the provisions of these amendments, shall, therefore, complete his term of office on 15 March 1892.

ART. 5. The executive is hereby given authority to call for a popular election of deputies to the Legislative Assembly, and of president, magistrates and public prosecutors of the courts of justice, for the constitutional period beginning on 15 March 1888, with the power to issue for this purpose the proper electoral laws.

ART. 6. The Constitutional Assembly, before closing its sessions, shall appoint two persons, who shall exercise the functions of *designados* until the next legislature, in use of the power vested in it by § 4 of Article 7 of the present decree, elects those who shall fill the position.

HAITI.

From 1790 to 1804 the French colony of Santo Domingo was distressed by almost continual disturbances, in the midst of which Dessalines published the Constitution of 9 May 1801.

Dessalines proclaimed the independence of the island 1 Jan. 1804, and took the title of Emperor under the name of Jacques First. The new State again took the historic name of Haiti. After the murder of Dessalines (17 October 1806), civil wars ensued, and two States were established under Christophe and Pétion, respectively king of the northern provinces and president of the rest of the island. Upon the death of the former (1820), President Boyer effected the union of the two States and governed in a personal and arbitrary manner until the revolution which overthrew him in 1844. The consequence of this revolution was the final separation of the eastern and Spanish part of the island, which took the name of Dominican Republic. Civil wars went on from 1842 to 1847, when Gen. Soulouque reestablished the empire for nine years. After the overthrow Geffrard restored the republic, but the empire recurred with his successor, Salnave, who, however, was executed three years later. Since this period the Constitution of the Republic of Haiti has been renewed several times, first on 6 August 1874,¹ and finally, after continually recurring disturbances, on 9 October 1889.² The latter remained in force until the passage of the Constitution which follows.³

CONSTITUTION OF 12 JUNE 1918.⁴

TITLE I.—THE TERRITORY OF THE REPUBLIC.⁵

ARTICLE 1. The Republic of Haiti is one and indivisible, free, sovereign and independent.

French text and English translation in parallel columns in J. I. RODRIGUEZ, *American Institutions* (Washington, 1906), vol. II, pp. 52-88. Spanish translation in RODRIGUEZ, *ibid.*, pp. 89-108. French text also in the *British and Foreign State Papers*, 81: 1-87.

French text in the *British and Foreign State Papers*, 65: pp. 1260-1280.

This introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 568-570, and RODRIGUEZ, *op. cit.*, 1-51.

Translation by HERBERT F. WRIGHT from the French text in *Le Moniteur, Journal de la République d'Haiti* (Port-au-Prince), of 19 June 1918.

Preceding this title in the official text appear the words, "Chapter First," which to have been inserted through error.

Its territory, including the islands adjacent thereto, is inviolable and shall not be alienated through any treaty or through any convention.

ART. 2. The territory of the Republic is divided into departments; each department is subdivided into districts (*arrondissements*); each district into communes.

The number and the limits of these subdivisions shall be determined by law.

TITLE II.—HAITIANS AND THEIR RIGHTS.

SECTION I.—CIVIL AND POLITICAL RIGHTS.

ART. 3. The rules governing nationality shall be determined by law.

ART. 4. All foreigners who find themselves on Haitian territory shall enjoy the same protection as that extended to Haitians.

ART. 5. The right to own real estate shall be given to foreigners residing in Haiti and to the societies organized by foreigners for purposes of residence, and agricultural, commercial, industrial or educational enterprises.

This right shall cease after a period of five years from the time when the foreigner shall have ceased to reside in the country or the activities of said companies shall have ceased.

ART. 6. Every Haitian citizen over 21 years of age shall be entitled to exercise political rights, if he has the other qualifications required by the Constitution and by law. Foreigners may acquire Haitian nationality by following the rules established by law. Naturalized Haitians shall be admitted to the exercise of political rights only after five years of residence in the territory of the Republic.

ART. 7. The exercise of political rights shall be suspended by virtue of a judicial condemnation which must have taken place in accordance with the laws of Haiti, carrying with it the suspension of political rights.

SECTION II.—PUBLIC LAW.

ART. 8. Haitians are equal before the law. They shall be equally admissible to civil and military employments, without any preference for preference other than personal merit or services rendered to the country.

ART. 9. Individual liberty is guaranteed.

No one shall be detained except upon probable cause relating to an act punishable by law and upon the order of a legally competent functionary. For this warrant of arrest to be executed, it shall be necessary:

1. That it state the cause of the arrest and the provision of the law which punishes the imputed act.

2. That notice, together with a copy of the warrant, be given to the accused party at the moment of the arrest.

Except in case of *flagrante delicto*, the arrest shall be executed subject to the forms and conditions above stated.

All arrests and all detentions made in opposition to this provision, and all acts of violence or severity accompanying the arrest are arbitrary acts, against which the aggrieved parties may, without previous authorization, complain before the competent tribunals, and use the authors or the executors to be prosecuted.

ART. 10. No one shall be tried by other judges than those assigned him by the Constitution or the law.

ART. 11. Domiciliary visit and seizure of papers shall not be made except by virtue of the law and in the forms provided by it.

ART. 12. No law shall have a retroactive effect.

ART. 13. No penalty shall be established except by law, nor shall any penalty be imposed except in the cases which the law shall terminate.

ART. 14. The right of property is guaranteed.

No one shall be deprived of his property except by reason of public utility, and in the cases and in the manner established by law, and upon previous payment of a just indemnity. Property shall not be confiscated for political reasons.

ART. 15. The penalty of death for political offenses is abolished except for the case of treason.

The law shall determine the penalty to be imposed in lieu thereof.

ART. 16. Every one has the right to express his opinions on all matters and to write, print and publish what he thinks. Writings shall not be submitted to previous censorship. Abuses of this right shall be defined and punished by law, without thereby abridging in any way whatever the freedom of the press.

ART. 17. All forms of worship are equally free.

Every one has the right to profess his religion and freely perform worship, provided he does not disturb the public order.

ART. 18. Teaching is free.

Freedom of teaching shall be exercised under the control and the supervision of the State in accordance with the law.

Primary instruction shall be compulsory. Public instruction shall be gratuitous in all its grades.

ART. 19. Trial by jury is established in all criminal cases and also in political offenses and offenses committed through the press.

ART. 20. Haitians have the right to assemble peaceably and without arms for discussing any matter, provided they comply with the laws

regulating the exercise of this right, but no previous authorization shall be required for this purpose.

This provision shall not be applicable to meetings in public places which shall remain subject in all respects to the police regulations.

ART. 21. Haitians have the right to join and form societies in accordance with the law.

ART. 22. The right of petition shall be personally exercised by one or several individuals, never in the name of a body.

Petitions shall be addressed to the legislative power or to the executive power.

ART. 23. The secrecy of private correspondence entrusted to the mail is inviolable.

The law shall determine who shall be responsible for this violation.

ART. 24. French is the official language. Its employment shall be obligatory in administrative and judicial matters.

ART. 25. No previous authorization shall be required to prosecute public officials for acts done during their administration, except in those cases established by the Constitution.

ART. 26. Nothing shall be added to or taken away from the Constitution by means of law. The letter of the Constitution shall always prevail.

TITLE III.—THE SOVEREIGNTY AND THE POWERS TO WHICH THE EXERCISE THEREOF IS DELEGATED.

ART. 27. The national sovereignty resides in the citizens taken as a whole.

ART. 28. The exercise of this sovereignty shall be delegated to three powers: the legislative power, the executive power and the judicial power.

They shall form the government of the Republic, which is essentially civil, democratic and representative.

ART. 29. Each power shall be independent of the other two in its attributions which it exercises separately.

None of them shall delegate its faculties, nor go beyond the limits prescribed for it.

ART. 30. Individual responsibility shall be formally attached to all public functions.

The law shall govern the procedure to be followed against public officials for acts done during their administration.

CHAPTER I.

SECTION I.—THE LEGISLATIVE POWER.

ART. 31. The legislative power shall be exercised by two assemblies: one Chamber of Deputies and one Senate, which shall form the legislative body.

rr. 32. The number of deputies shall be fixed according to the relation, on the basis of one deputy for every 60,000 inhabitants. While the census of the population is being made, the number of deputies is fixed at 36, apportioned between the arrondissements actually existing, to wit: 3 deputies for the Arrondissement of Port-au-Prince; 2 each for the Arrondissements of Cap-Haïtien, Cayes, de-Paix, Gonaïves, Jérémie, Saint-Marc and Jacmel; and 1 deputy each for the other arrondissements. The deputy shall be elected by a majority of the votes cast by the primary assemblies of the district in conformity with the manner and the conditions provided by law.

rr. 33. To be a member of the Chamber of Deputies, it shall be necessary:

1. To be over 25 years of age.
2. To be in the enjoyment of civil and political rights.
3. To have resided at least one year in the arrondissement to be represented.

rr. 34. The members of the Chamber of Deputies shall be elected for two years, and may be reelected indefinitely. They shall begin to discharge their office the first Monday of April of even numbered years.

rr. 35. In case of vacancy by reason of death, resignation, disqualification of a deputy, or for any other cause, provision shall be made for a successor in his electoral district, only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the adjournment of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several districts.

SECTION II.—THE SENATE.

rr. 36. The Senate shall consist of 15 Senators.

Their functions shall last six years and shall begin the first Monday of April of even numbered years.

They may be reelected indefinitely.

rr. 37. The Senators represent the departments, which are five in number, to wit:

4 senators for the Department of the West.

3 each for the Departments of the North, South and the Artibonite.

2 for the Department of the North West.

Senators shall be elected by universal and direct suffrage in the primary assemblies of the several departments in accordance with the manner and the conditions prescribed by law.

Those candidates shall be elected who shall have obtained the highest number of votes in the departments.

In the first election after the adoption of the present Constitution, these elections shall take place in the following manner:

In each department the candidate who shall have obtained the highest number of votes shall be elected senator for this department for a period of six years; the candidate who shall have obtained the next highest number of votes shall be elected for a period of four years.

In each of the Departments of the North, of the South and of the Artibonite, the candidate who shall have obtained the third highest number of votes, and, in the Department of the West, the candidates who shall have obtained the third and fourth highest number of votes, shall be elected for a period of two years.

In the following and in the regular elections, the candidates who shall have obtained the highest number of votes in the several departments shall be elected for the entire period of six years.

The Senate shall be renewed by thirds every two years.

ART. 38. To be elected senator, it shall be necessary:

To be over 30 years of age.

To be in the enjoyment of civil and political rights.

To have resided at least two years in the department to be represented.

ART. 39. In case of vacancy by reason of death, resignation, disqualification of a senator, or any other cause, provision shall be made for a successor in his department only for the remainder of his term, by a special election called immediately by the President of the Republic.

This election shall take place within a period of 30 days after the convocation of the primary assembly, in accordance with Article 107 of the present Constitution.

The same procedure shall take place in case of non-election in one or several departments.

SECTION III.—THE NATIONAL ASSEMBLY.

ART. 40. The two houses shall meet in National Assembly, in the cases provided for by the Constitution.

The powers of the National Assembly shall be limited and shall not be extended to any other purposes than those which are specially assigned to it by the Constitution.

ART. 41. The president of the Senate shall preside over the National Assembly, the president of the Chamber of Commons shall be

vice-president of it, and the secretaries of the Senate and of the Chamber of Commons shall be the secretaries of the National Assembly.

ART. 42. The attributions of the National Assembly shall be:

1. To elect the President of the Republic and to administer to him the constitutional oath.
2. To declare war, upon the report of the executive power.
3. To approve or to reject treaties of peace and other international treaties and conventions.

ART. 43. In the years of regular presidential elections, the National Assembly shall proceed to the election of the President of the Republic on the second Monday in April and shall not undertake any other work, remaining in permanent session except on Sundays and holidays, until the President shall have been elected.

ART. 44. The election of the President of the Republic shall be made by secret ballot and by an absolute majority.

If, after the first ballot, no candidate has secured the number of votes required for his election, a second ballot shall be taken. If on his second ballot no candidate is elected, the election shall be concentrated on the three candidates who have obtained the highest number of votes. If after three ballots none of the three has been elected, the balloting shall be between the two who have received the greatest number of votes, and the one who secures the majority of votes cast shall be proclaimed President of the Republic.

If the votes of the two candidates are equally divided, the election shall be decided by lot.

ART. 45. In case of vacancy of the office of President, the National Assembly must convene within ten days, with or without convocation of the Council of the Secretaries of the State.

ART. 46. The meetings of the National Assembly shall be public. Nevertheless, it may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public.

ART. 47. In case of urgency at a time when the legislative body is not in session, the executive power may convene the National Assembly in extra session.

He shall communicate to the National Assembly, through a written message, the reasons for this convocation.

ART. 48. The presence in the National Assembly of a majority of each of the two houses is necessary to pass its resolutions; but a minority may adjourn from day to day in order to compel the absent members to attend the meeting, according to the manner and under the penalties which the National Assembly may prescribe.

CHAPTER II.

SECTION I.—THE EXERCISE OF THE LEGISLATIVE POWER.

ART. 49. The seat of the legislative body shall be in the capital of the Republic.

ART. 50. The legislative body shall meet each year, without need of express convocation, on the first Monday of April.

The session shall begin from the date when the bureaux ¹ of the two houses are established.

The session shall last three months. In case of necessity, this period may be extended to four months by the executive power or by the legislative body.

The President of the Republic may adjourn the houses. But the adjournment shall not last over one month, and more than two adjournments shall not take place during the course of the same session.

ART. 51. In the interval between sessions, and in case of urgency, the President of the Republic shall call the legislative body to meet in extra session.

He shall explain to them, by means of a message, the reason for this measure.

In the case of being called to meet in extra session, the legislative body shall not take up any other matters foreign to those for which it has been convened.

ART. 52. Each house shall be the judge of the election of its members and shall decide absolutely the contests which may arise on the subject.

ART. 53. The members of each house shall individually take the oath to maintain the rights of the people and to be faithful to the Constitution.

ART. 54. The meetings of the two houses shall be public.

Each house may resolve itself into a secret committee at the request of five members and decide thereafter by an absolute majority whether or not the meeting should continue to be held in public in regard to the same subject.

ART. 55. The legislative power shall make the laws on all subjects of public interest.

The initiative [of the legislation] shall belong to each one of the two houses as well as to the executive power.

Nevertheless, the budgetary law, the law concerning the assessment, distribution and manner of collection of taxes and contributions, the laws having for their object the creation of revenue or increase of the expenses of the State shall be first voted by the Chamber of Deputies.

¹ That is, the officers and clerks necessary for the conduct of business.

In case of disagreement between the two houses in regard to these laws, each house shall draw by lot an equal number of members to form an interparliamentary commission which shall decide the disagreement with finality.

The executive power has the exclusive right to take the initiative with laws regarding the public expenses; and neither of the two houses has the right to increase in whole or in part the expenses proposed by the executive power.

ART. 56. Each house, by its own rules, shall establish its discipline and determine the method under which it shall exercise its attributions.

Each house may impose disciplinary penalties upon its members for reprehensible conduct and may expel a member by the vote of a majority of two thirds of its members.

ART. 57. The members of the legislative body, except in case of *flagrante delicto*, of treason or acts entailing a corporal or ignominious punishment, shall not be prosecuted or arrested by way of repression during the length of the session without the authorization of the house to which they belong.

In no case shall they be arrested while they are attending a meeting of their house or while they are on their way to and from it.

ART. 58. Neither of the two houses shall adopt any resolutions without the presence of an absolute majority of its members; however, a lesser number of members may adjourn from day to day and compel the absent members to attend the meeting according to the manner and under the penalties which each house may prescribe.

ART. 59. No act of the legislative body shall be passed except by a number of votes equal to or greater than the majority of the members present, except when otherwise provided for by the present Constitution.

ART. 60. No bill shall be adopted by either of the two houses without having been voted article by article.

ART. 61. Each house shall have the right to amend and revise the articles and amendments proposed. The amendments voted by one house shall not be made a part of a bill until they have been voted on by the other house; and no bill shall be enacted into law until after it has been voted on in the same form by the two houses. Any bill may be withdrawn before said bill is definitively voted upon.

ART. 62. Every law passed by the legislative body shall be immediately sent to the President of the Republic, who, before promulgating it, has the right to make objections thereto, in whole or in part.

In this case he shall return the law to the house in which it originated, together with his objections. If the law is amended by this house, it shall be sent to the other house, together with the objections.

If the law thus amended is passed by the second house, it shall be sent again to the President to be promulgated.

If the objections are rejected by the house which originally passed the bill, it shall be sent to the other house, together with the objections.

If the second house likewise votes to reject these objections, the law shall be sent to the President, who shall then be obliged to promulgate it.

The rejection of the objections shall be voted in both houses by a majority of two thirds of each house; in this case the vote of each house shall be by yeas and nays and shall be noted down in the margin of the minutes beside the name of each member of the Assembly.

If two thirds of either house shall not meet to consider the rejection of the objections, said objections shall be accepted.

ART. 63. The right to object should be exercised within eight days from the date of the presentation of the law to the President, exclusive of Sundays and days of adjournment of the legislative body, in accordance with Article 50 of the present Constitution.

ART. 64. If, within the period prescribed by the preceding article, the President of the Republic does not make any objection, the law shall be promulgated, unless the session of the legislative body shall have closed before the expiration of that period. In this case the law shall be held in abeyance.

ART. 65. A bill rejected by one of the two houses shall not be re-introduced during the same session.

ART. 66. The laws and other acts of the legislative body shall become official through the *Moniteur* and shall be inserted in the bulletin printed and numbered under the title, *Bulletin des Lois*.

ART. 67. The law shall take its date from the day of its definitive adoption by the two houses; but no laws shall become obligatory until after their promulgation, which is to be made according to law.

ART. 68. No one shall personally present petitions to the legislative body.

ART. 69. Each member of the legislative body shall receive a monthly indemnity of one hundred and fifty dollars, beginning from his taking of the oath.

ART. 70. The office of member of the legislative body is incompatible with any other office under the pay of the State.

CHAPTER III.—THE EXECUTIVE POWER.

SECTION I.—THE PRESIDENT OF THE REPUBLIC.

ART. 71. The executive power shall be exercised by a citizen who shall take the title of President of the Republic.

Art. 72. The President of the Republic shall be elected for four

shall enter upon his duties on 15 May, except when he has been elected to fill a vacancy; in this case he shall be elected for the remainder of the term and he shall enter upon his duties immediately after his election.

The President shall be eligible for immediate reelection. A President who has been reelected shall not be elected for a third term after the expiration of a period of four years.

A citizen who has been elected President three times shall not be eligible for that office.

Art. 73. To be elected President of the Republic, it shall be necessary:

1. To have been born of a Haitian father and never to have received his nationality.
2. To be over 40 years of age.
3. To be in the enjoyment of civil and political rights.

Art. 74. The President shall, before entering upon his duties, before the National Assembly the following oath:

I swear before God and before the nation to observe and cause to be observed faithfully the Constitution and the laws of the Haitian people, to protect the rights of the latter, to maintain the national independence and the integrity of the territory.

Art. 75. The President of the Republic shall appoint and remove secretaries of State.

He shall be charged with seeing to the execution of the treaties of the Republic.

He shall seal the laws with the seal of the Republic and shall promulgate them within the time prescribed by Articles 62, 63 and 64.

He shall be charged with the enforcing of the Constitution and laws, acts and decrees of the legislative body and of the National Assembly.

He shall issue all the regulations and decrees necessary for this purpose, without, however, the power to suspend or interpret the acts and decrees themselves or to interfere with their enforcement.

He shall make appointments to public offices and positions, only in virtue of the Constitution or of some express provision of a law under the conditions therein prescribed.

He shall provide according to law for the internal and external security of the State.

He shall make all international treaties or conventions, subject to the approval of the National Assembly.

He shall have the right to grant pardons and commutation of punishment imposed by final judgments rendered in actual trial,

except in cases of impeachment by the courts or by the Chamber of Deputies, as is provided in Articles 100 and 101 of the present Constitution.

He shall grant amnesty in political matters according to the provisions of the law.

He shall command and direct the armed forces of the Republic and shall confer the grades according to the law.

He shall have power to demand a written report from the chief official of each of the ministerial departments on any subject relating to the conduct of their respective departments.

ART. 76. If the President shall become temporarily unable to exercise his functions, the Council of the Secretaries of State shall be charged with the executive authority so long as the disability exists.

ART. 77. In case of vacancy of the office of President, the Council of the Secretaries of State shall be vested temporarily with the executive power.

It shall immediately convene the National Assembly for the election of a successor for the remainder of the presidential term.

If the legislative body is in session, the National Assembly shall be convened without delay. If the legislative body is not in session, the National Assembly shall be called in accordance with Article 45.

ART. 78. All the acts of the President, except the decrees appointing or removing from office the secretaries of State, shall be countersigned by the secretary of State in charge of the matter concerned.

ART. 79. The President shall have no other powers than those formally attributed him by the Constitution and the special laws enacted by virtue of the Constitution.

ART. 80. At the opening of each session the President, by means of a message, shall render to each of the two houses separately an account of his administration during the year and shall present the general situation of the Republic both at home and abroad.

ART. 81. The President of the Republic shall receive from the public treasury an annual indemnity of twenty-four thousand dollars.

ART. 82. The President shall reside in the National Palace of the capital.

SECTION II.—THE SECRETARIES OF STATE.

ART. 83. The secretaries of State shall be five in number. They shall be distributed among the different ministerial departments as the services of the State may require.

A decree shall determine this distribution in accordance with the law.

ART. 84. To be appointed secretary of State, it shall be necessary

1. To be over 30 years of age.
2. To be in the enjoyment of civil and political rights.

ART. 85. The secretaries of State shall meet in Council under the presidency of the President of the Republic or of any one of them delegated by the President.

All deliberations of the Council shall be recorded in a book; and the minutes of each session shall be signed by the members of the Council present thereat.

ART. 86. The secretaries of State shall have the right to the floor of each of the two houses as well as to that of the National Assembly, but only to discuss the bills proposed by the executive power and to support its objections or to make any other official communication.

ART. 87. The secretaries of State shall be responsible, each in that which concerns him, both for the acts of their department and for the non-execution of laws relating thereto.

They shall correspond directly with the authorities subordinate to them.

ART. 88. Each secretary of State shall receive from the public treasury an annual indemnity of six thousand dollars.

CHAPTER III [*bis*].—THE JUDICIAL POWER.¹

ART. 89. The judicial power shall be exercised by a Court of Cassation and by inferior courts, the formation and jurisdiction of which shall be established by law.

ART. 90. The judges of all the courts shall be appointed by the President of the Republic.

He shall appoint and remove the officials of the public ministry at the Court of Cassation and the other courts, justices of the peace and their substitutes.

ART. 91. No one shall be appointed judge or officer of the public ministry who is not over 30 years of age, for the Court of Cassation, or over 25 years, for the other courts.

ART. 92. The Court of Cassation shall take no cognizance of the subject-matter of cases. Nevertheless, in all matters, except such as have been passed upon by jury, when the same case shall be presented again by the same parties upon an appeal, even upon an exception, the Court of Cassation, admitting the appeal, shall not remand the case, but shall pass a decision upon the subject matter, in full bench.

ART. 93. The judges of the Court of Cassation, the judges of the courts of appeal and of first instance shall enjoy irremovability.

The law shall regulate the conditions upon which they shall cease to enjoy the privilege of irremovability and the manner of their retirement on account of age or any other disability or by reason of the suppression of the court.

¹ This repetition in the numbering of the chapters is obviously a typographical error.

They shall not be transferred from one court to another or entrusted with other functions, even if superior, without their formal consent.

ART. 94. Judicial functions are incompatible with all other salaried public functions.

Incompatibility resulting from relationship or marriage shall be regulated by law.

The law shall also regulate the conditions required to be a judge of any rank.

ART. 95. Commercial litigation shall be submitted to the courts of the first instance and the justices of the peace, in accordance with the Code of Commerce.

ART. 96. The sittings of the courts shall be public, unless it is deemed that publicity is detrimental to public order or good morals; in this case a declaration to that effect shall be made by the court.

The hearing in cases of political offenses or of offenses committed through the press shall never be secret.

ART. 97. Every decree or decision shall state the grounds upon which it is rendered; it shall be rendered in open court.

ART. 98. The Court of Cassation shall take cognizance and pronounce upon conflicts of attributions in the manner established by law.

It shall be competent in all cases decided by a court martial and brought before it on the ground of lack of competence or excess of jurisdiction of that court.

ART. 99. The Court of Cassation, in full bench, shall decide upon the constitutionality of the laws.

The courts should refuse to apply all those laws which have been declared unconstitutional by the Court of Cassation.

They shall not apply the decrees and regulations of the administration which are not in accordance with the law.

CHAPTER IV.—THE PROSECUTION AGAINST THE MEMBERS OF THE STATE POWERS.

ART. 100. The Chamber of Deputies has the right to impeach the President and indict him before the Senate for high treason or any other crime or offense committed by him in the exercise of his functions.

It may also impeach:

1. The secretaries of State in case of malversation, treason, abuse or excess of their powers or any other crime or offense committed in the exercise of their functions.

2. The members of the Court of Cassation, of one of its sections or of any officer of the public ministry connected with the Court of Cassation, in case of prevarication.

impeachment shall not be pronounced except by a majority of two-thirds of the members of the Chamber. By virtue thereof, the Chamber indicts the accused before the Senate sitting as a High Court of Justice. At the opening of the hearing each member of the High Court of Justice shall take oath to judge with impartiality and honesty proper to an honest and free man, following his conscience and his intimate conviction.

When the President of the Republic is on trial, the president of the Court of Cassation shall preside.

The High Court of Justice shall not impose any other penalty than imprisonment, dismissal and deprivation of the right to exercise any public function for not less than one year nor more than five years; a guilty party may be indicted before the ordinary courts in accordance with the law, if there is reason for imposing other penalties, deciding upon the institution of civil proceedings.

No one shall be tried or sentenced except by a majority of two-thirds of the members of the Senate.

The time fixed for the duration of the session of the legislative power. Article 50 of the present Constitution shall not serve to put an end to the prosecution, when the Senate is sitting as a High Court of Justice.

101. In case of prevarication, any judge or official of the Ministry shall be impeached by one of the sections of the Court of Cassation.

By the vote of a whole court, the impeachment shall be pronounced by the Court of Cassation, in full bench.

102. The law shall regulate the mode of procedure against the President of the Republic, the secretaries of State and the judges in case of crimes or offenses committed by them either in the exercise of their functions or outside thereof.

CHAPTER IV.—COMMUNAL INSTITUTIONS.

103. There shall be one council for each commune. The president of the communal council has the title of communal mayor.

The organization of the institution shall be regulated by law.

The law shall determine in the communes or in the arrondissements the officials who shall represent directly the executive power.

104. The following principles must form the bases of the communal institutions:

The election by the primary assemblies of the communal council every two years.

The attribution to the communal councils of all that may be referred to the commune, subject, however, to subsequent ap-

proval of their acts in the cases and in the manner determined by law.

3. The publicity of the meetings of the councils within the limits established by law.

4. The publicity of budgets and accounts.

5. The intervention of the executive power to prevent the councils from going beyond their attributions and doing injury to the general interests.

ART. 105. The communal magistrates shall be paid by their commune.

ART. 106. The communal council shall not spend every month more than one twelfth of the total amount voted for its budget.

CHAPTER V.—PRIMARY ASSEMBLIES.

ART. 107. The primary assemblies shall meet without previous convocation in their respective communes on 10 January of each even-numbered year in the manner and form established by law.

They shall have for their object the election, at the times fixed by the Constitution, of the deputies of the people, the senators of the Republic, the communal councilors, and to decide on the amendments proposed to the Constitution.

They shall not take cognizance of any other matters than those attributed to them by the present Constitution.

They are bound to adjourn *sine die* as soon as this object is accomplished.

ART. 108. The law establishes the conditions required to exercise the right of suffrage in the primary assemblies.

TITLE IV.—FINANCES.

ART. 109. The imposts for the benefit of the State and of the communes shall only be established by a law.

No charge shall be levied on the communes except upon the formal consent thereof.

ART. 110. The laws establishing the imposts shall be enforced only for one year.

ART. 111. No distinction in regard to imposts shall ever be made. No exemption, no increase or decrease of imposts shall be made except by a law.

ART. 112. No pension, gratuity, subvention or subsidy of any kind to be paid by the public treasury, shall be granted except by virtue of a law proposed by the executive power.

ART. 113. The simultaneous holding of offices under the pay of the State is formally prohibited, except positions in secondary or higher education.

ART. 114. The budget submitted by each secretary of State shall be divided into chapters and must be voted by articles.

The shifting of appropriations is forbidden.

The Secretary of State for Finance shall be bound, on his personal responsibility, not to disburse each month, for the benefit of each ministerial department, more than one twelfth of the amount appropriated in its own budget; an exception may be made for extraordinary cases by decision of the Council of the Secretaries of State.

The general accounts of the receipts and expenditures of the Republic shall be kept by the Secretary of State for Finance under the system of accounting to be established by law.

The fiscal year begins on 1 October and ends on 30 September of the following year.

ART. 115. Every year the legislative body shall settle:

1. The accounts of receipts and expenditures for the preceding year or years.

2. The general budget of the State containing the rough estimate and the portion of the funds assigned annually to each secretary of State. But no resolution or amendment shall be introduced with the budget for the purpose of reducing or increasing the salaries of public officials.

All changes of this nature shall only be effected by an amendment of the law.

ART. 116. The general accounts and the budgets provided for in the preceding article should be submitted to the legislative body by the Secretary of State for Finance at the latest within eight days of the opening of the legislative session.

The examination and the liquidation of the accounts of the general administration and of all accounts against the public treasury shall be made according to the manner established by law.

ART. 117. In case the legislative body, for any reason whatever, should fail to approve the budget of one or more of the ministerial departments before its adjournment, the budget or budgets of the interested departments in force for the current budgetary year shall be maintained for the following budgetary year.

TITLE V.—THE PUBLIC FORCE.

ART. 118. An armed force to be known as the *Gendarmerie d'Haïti* shall be established to preserve order, guarantee the rights of the people and police the cities and the country.

It shall be the only armed force of the Republic.

ART. 119. The regulations for the maintenance of discipline in the gendarmerie and the repression of the offenses committed by those who compose it shall be established by the executive power. These regulations shall have the force of law.

These regulations shall establish the organization of the courts martial of the Gendarmerie, shall prescribe their powers and shall determine the obligations of their members and the rights of the individuals who are to be judged by them.

The sentences pronounced by courts martial of the Gendarmerie shall be subject only to revision by the Court of Cassation, and this revision shall be confined to questions of jurisdiction and of excess of powers.

TITLE VI.—GENERAL PROVISIONS.

ART. 120. The national colors shall be blue and red horizontally placed.

The coat of arms of the Republic shall consist of a palm tree surmounted by a cap of liberty adorned by a trophy with the legend: "L'Union fait la force."

ART. 121. No oath shall be required except by virtue of the Constitution or of a law.

ART. 122. The national holidays shall be: That of the Independence, 1 January, and that of Agriculture, 1 May.

The legal holidays shall be determined by law.

ART. 123. No law, decree or rule of the public administration shall be obligatory until it has been published in the form established by law.

ART. 124. All elections shall be made by secret ballot.

ART. 125. The state of siege shall not be declared except where the external or internal security is in imminent peril.

The act of the President of the Republic declaring a state of siege must be countersigned by the majority of the secretaries of State present in the capital.

An account shall be rendered of it at the opening of the houses by the executive power.

ART. 126. The effects of the state of siege shall be regulated by a special law.

ART. 127. The present Constitution and all the treaties actually in force or to be concluded hereafter, and all the laws decreed in accordance with this Constitution or with these treaties, shall constitute the law of the country, and their relative superiority shall be determined by the order in which they are here mentioned.

All the provisions of the laws which are not contrary to the provisions of this Constitution or to the treaties actually in force or to be concluded hereafter, shall be maintained until they have been formally abrogated or amended; but those which are contrary thereto shall be and shall remain abrogated.

TITLE VII.—THE REVISION OF THE CONSTITUTION.

ART. 128. The amendments of the Constitution must be adopted by the majority of votes of all the electors of the Republic. Each of the two branches of the legislative power, or the President of the Republic, through a message to the legislative power, may propose amendments to the present Constitution.

The amendments proposed shall not be subject to popular ratification until after their adoption by a two-thirds majority of each legislative house sitting separately.

These amendments shall then be published immediately in the *Moniteur*.

For three months before voting on the proposed amendments, the texts thereof shall be posted by each communal magistrate in the principal public places of his commune, and shall be printed and published twice a month in the newspapers.

At the next biennial session of the primary assemblies, the proposed amendments shall be submitted to vote, one by one, by yeas and nays, in secret and separate ballot, and those amendments which would have obtained the absolute majority of votes in all the territory of the Republic shall become an integral part of the Constitution from the day on which the legislative body convenes.

SPECIAL ARTICLE.

All the acts of the Government of the United States during its military occupation of Haiti are ratified and validated.

A. No Haitian shall be amenable to civil or criminal prosecutions for reason of any act executed by virtue of orders received during the occupation or under its authority.

The acts of the courts martial during the occupation shall not be subject to revision, without prejudice, however, to the right of pardon.

The acts of the executive power performed up to the promulgation of the present Constitution are likewise ratified and validated.

TITLE VIII.—TRANSITORY PROVISIONS.

ART. A. The duration of the mandate of the citizen President of the Republic at the moment of the adoption of the present Constitution shall come to an end on 15 May 1922.

ART. B. The duration of the mandate of the communal councilors existing at the time of the adoption of the present Constitution shall come to an end in January, 1920.

ART. C. The first election of members of the legislative body after the adoption of the present Constitution shall take place on 10 January of an even-numbered year.

The year shall be fixed by a decree of the President of the Republic published at least three months before the meeting of the primary assemblies.

The session of the legislative body then elected shall convene the constitutional date immediately following the first election.

ART. D. A Council of State, created in accordance with the same principles as those of the decree of 5 April 1916 and composed of 21 members distributed among the different departments, shall exercise the legislative power until the legislative body is constituted, at which date the Council of State shall cease to exist.

ART. E. The irremovability of judges shall be suspended for a period of six months beginning from the date of the promulgation of the present Constitution.

HONDURAS.

first separate Constitution of the Republic of Honduras dates 1 December 1825. After the dissolution of the Central American Federation, Honduras remodeled its Constitution on 11 January 1848. This Constitution has been modified on several occasions: 4 May 1848, 29 September 1865, 23 December 1873, 1 November 1884 and 14 October 1894. But the wars and dictatorships which followed each other almost without interruption for fifty years caused the suspension or non-observance of these texts, the majority of which have remained dead letters. The Constitution in force today is still that of 1894. Replaced by a new Constitution in September 1904,² it was restored³ shortly after with a single modification (abolishment of the institution of the jury).⁴

CONSTITUTION OF 14 OCTOBER 1894.⁵

[PREAMBLE.]

We, the representatives of the people of Honduras, having assembled to formulate the fundamental law of the nation, declare and enact the following Political Constitution.

TITLE I.—THE NATION.

ARTICLE 1. Honduras is a State disjoined from the Republic of Central America. In consequence, it recognizes as a most pressing duty its reunion with the other States of the dissolved Republic. To effect the legislative power is authorized to definitively ratify treaties which aim to accomplish this reunion with one or more States of the old Federation.

2. Honduras is a free, sovereign and independent nation.

3. The national sovereignty resides essentially in the universe of Hondurans.

Spanish translation in the *British and Foreign State Papers*, 71: pp. 906-921.

Spanish text and English translation in parallel columns in J. I. RODRIGUES, *América Central* (Washington, 1906), vol. I, pp. 360-389. English translation also in the *British and Foreign State Papers*, 100: pp. 1072-1089.

Discurso del Presidente (Tegucigalpa, 1909), p. 10.

Introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. II, pp. 563-564.

Adapted by ANTONIO M. OPISSO from the official Spanish text.

ART. 4. All public power emanates from the people. The functionaries of the State have no further authority than that expressed given to them by law. All acts executed by them outside of the law are null.

ART. 5. The limits of Honduras and its territorial divisions shall be determined by law.

TITLE II.—HONDURANS.

ART. 6. Hondurans are either natives or naturalized.

ART. 7. The following are natives:

1. Those who are born in Honduras of Honduran parents
2. Children born in Honduras of foreigners domiciled there
- children of a Honduran father or mother born abroad who shall choose Honduran nationality.

The provisions of the last paragraph may be modified by treaty provided there is reciprocity.

ART. 8. Children of the other Republics of Central America declare before the highest political departmental authorities their desire to become Hondurans are considered as natives.

ART. 9. The following are naturalized:

1. Spanish-Americans who have resided one year in the country and who declare, before the proper authority, their desire to be naturalized therein.

2. Other foreigners who have resided two years in the country and who declare, before the aforesaid authority, their desire to be naturalized therein.

3. Those who obtain naturalization papers from the authority designated by the law.

TITLE III.—FOREIGNERS.

ART. 10. The Republic of Honduras is a sacred asylum for all who may take refuge in its territory.

ART. 11. Foreigners, from the moment of their arrival in the territory of the Republic, are obliged to respect the authorities and observe the laws.

ART. 12. Foreigners enjoy in Honduras all the civil rights of Hondurans.

ART. 13. They may acquire every kind of property in the country but with regard to their property, they shall be subject to all ordinary taxes and to those extraordinary taxes of a general character to which Hondurans are liable.

ART. 14. They shall not present claims or demand any indemnity from the State except in such cases and in such form as Honduras may do so.

ART. 15. Foreigners shall not have recourse to diplomatic intervention except in cases of denial of justice. For this purpose a judicial decision unfavorable to the claimant is not understood to be a denial of justice. If, in contravention of this provision, they do not terminate their claims in an amicable manner and cause injury to the country, they shall forfeit the right to live therein.

ART. 16. Extradition shall be granted only by virtue of a law or of treaties, for serious common crimes; never for political crimes, even if, in consequence of the latter, a common crime should ensue.

ART. 17. The laws shall establish the form and the cases in which a foreigner may be denied entry into the territory of the nation, or his expulsion ordered, because of his being considered pernicious.

ART. 18. Laws and treaties shall define the use of these guarantees, without the power to diminish or alter them.

ART. 19. The provisions of this title do not modify the treaties now existing between Honduras and other nations.

TITLE IV.—CITIZENS.

ART. 20. All Hondurans over 21 years of age, and those over 18 who are married or know how to read and write, are citizens.

ART. 21. The following are the rights of the citizen: To vote, to apply for public offices and to possess and carry arms, all in accordance with the law.

ART. 21. The rights of citizenship are suspended:

1. By an order for imprisonment or a declaration that there are grounds for indictment.

2. By vagrancy legally established.

3. By disorder of the mental faculties judicially established.

4. By a sentence depriving the subject of political rights, during the service of such sentence.

5. By having been declared a fraudulent debtor, until judicial rehabilitation is obtained.

6. By a sentence which imposes a penalty higher than a correctional penalty.

7. By accepting employment from foreign States without permission of the proper authorities. The Republics of Central America are not considered foreign States.

ART. 23. Active suffrage can not be renounced and is obligatory on all citizens.

ART. 24. Suffrage shall be direct and secret. Elections shall be carried out in the form prescribed by law, and the law shall give corresponding representation to minorities.

ART. 25. Only citizens over 21 years of age, who are in the exercise of their rights, can qualify for election.

TITLE V.—RIGHTS AND GUARANTEES.

ART. 26. The Constitution guarantees to all the inhabitants of Honduras, whether nationals or foreigners, the inviolability of human life, individual security, liberty, equality and property rights.

INVIOABILITY OF HUMAN LIFE.

ART. 27. Capital punishment is absolutely abolished in Honduras.

INDIVIDUAL SECURITY.

ART. 28. The Constitution recognizes the guarantee of *habea corpus*. Consequently every person illegally detained, or any other person in his name, has the right to have recourse to the court, verbally or in writing, demanding the production of the person.

ART. 29. Every person has the right to ask for protection against any attempt or arbitrary proceedings of which he may be a victim and to make effective the exercise of all the guarantees which the Constitution establishes, when he has been wrongfully restrained in the enjoyment thereof, by law or by the acts of any public authority, agent or functionary.

ART. 30. A warrant of arrest which does not emanate from the competent authority, or which has been issued without the legal formalities, is illegal.

ART. 31. Detention for the purpose of inquiry shall not exceed six days.

ART. 32. The solitary confinement of the person detained shall not exceed 24 hours.

ART. 33. No order for imprisonment may be made without full proof before the arrest that a crime has been committed which is punishable with a penalty higher than a correctional penalty and without at least reasonable presumption as to who the author is.

ART. 34. Imprisonment or arrest is permitted, through sentence of a judicial order, in such cases and for such periods as are provided by the law. The judicial order shall not be for a period exceeding three days.

ART. 35. An offender in *flagrante delicto* may be apprehended by any person for the purpose of handing him over immediately to the authority having the right to arrest.

ART. 36. No one may be imprisoned or detained except in such places as the law determines.

ART. 37. Even with a warrant for imprisonment, no one can be taken to prison, or detained therein, if he furnishes sufficient bail when a greater penalty than three years is not applicable for the offense.

ART. 38. No one may be judged by special commissions or by judges other than those designated by the law.

ART. 39. Imprisonment for debts is forbidden except in cases of fraud.

ART. 40. The right of defense is inviolable.

ART. 41. In criminal cases no one can be obliged to give evidence against himself or against his spouse or relatives within the fourth degree of consanguinity or the second degree of affinity.

ART. 42. No one may be molested or prosecuted on account of his opinions. Private actions which do not interfere with morality or public order, or which do not injure third parties, will always be beyond the action of the law.

ART. 43. Whipping or beating with cudgels and all kinds of torture are absolutely forbidden. Unnecessary imprisonment and all undue rigor are also forbidden.

ART. 44. The dwelling of every individual is a sacred asylum which shall not be forcibly entered except by the authorities in the following cases:

1. To take out of it a criminal surprised in *flagrante delicto*.
2. When an offense is committed inside of the dwelling; when some scandalous disturbance requiring prompt remedy has taken place therein, or when so requested from the interior of the house.
3. In case of fire, earthquake, flood, epidemic or any other analogous emergency.
4. To release a person unlawfully sequestered.
5. To remove objects sought by virtue of a process, provided there is at least partial proof of the existence of said objects, or to execute a judicial order legally issued.
6. To arrest parties whose imprisonment or detention has been ordered, provided there is at least partial proof that they are concealed in the house to be forcibly entered.

In the two cases last mentioned the forcible entry shall not take place without the written order of the competent authority.

ART. 45. When the dwelling place to be entered is not the domicile of the party pursued, the authority or its agents shall previously ask the permission of the tenant.

ART. 46. The forcible entry of a domicile in those cases which require a written order shall not be made between the hours of seven o'clock in the evening and six o'clock in the morning.

ART. 47. Private correspondence by letter or telegram, private papers and commercial books are inviolable. In no case shall the executive power or the agents thereof intercept, open or detain private letters or telegrams. Correspondence intercepted, whether in post-offices or any other place, shall not be admitted in evidence.

ART. 48. Private correspondence, papers and books shall only be seized by order of a competent court in the cases, whether civil or criminal, which the law may determine; said correspondence must be examined in the presence of the person possessing it, or if absent, in the presence of two witnesses, and those papers which have no bearing upon the matter under investigation shall be returned.

ART. 49. The enactment of laws providing for proscription, confiscation or the establishment of infamous or perpetual penalties is hereby forbidden. The duration of the penalties shall not exceed fifteen years.

ART. 50. Laws shall not have retroactive effect except in criminal cases, where the new law is favorable to the delinquent.

ART. 51. The police force shall only be entrusted to the civil authorities.

ART. 52. No penalty higher than correctional shall be imposed except after a jury has found the delinquent guilty.

LIBERTY.

ART. 53. A slave who enters on the territory of Honduras becomes free. Slave traffic is a crime.

ART. 54. The free exercise of all religions, limited only by morality and public order, is guaranteed.

ART. 55. The civil status of persons shall not be subject to any specified religious belief.

ART. 56. The expression of thought, written or spoken, is free, and the law shall not restrict it. Neither shall the law prevent the circulation of national or foreign printed matter. Offenses committed through the press shall be previously qualified by the jury.

ART. 57. Free education is guaranteed. Education supported by public funds shall be laical, and primary education shall be also gratuitous, obligatory and subsidized by the State. The law shall regulate education without restricting its liberty or the independence of its professors.

ART. 58. The liberty of meeting unarmed and of forming associations for any legal object is guaranteed. The establishment of any kind of monastic associations is forbidden.

ART. 59. All industries are free. Only spirits, gunpowder, salt-peter and tobacco can be made a monopoly for the benefit of the nation.

ART. 60. Monopolies, privileges and concessions can only be established for a limited time for the purpose of stimulating the introduction or improvement of new industries, colonization or emigration, institution of credit and the opening up of means of communication.

ART. 61. Every one is at liberty to dispose of his property, in accordance with the civil law, by sale, donation, will or any other legal title.

ART. 62. Entails and all institutions in favor of religious establishments are prohibited.

ART. 63. Any person or collection of persons has the right to address petitions to the legally established authorities for their decision and to be informed thereof.

ART. 64. Every one is at liberty to enter, remain in, traverse and quit the territory of the nation without a passport.

EQUALITY.

ART. 65. In law there are no charters or personal privileges. The ministers of the different religious societies shall not hold public offices.

ART. 66. Proportionality shall be the basis of direct taxation.

PROPERTY.

ART. 67. No one shall be deprived of his property except by virtue of a law or of a sentence founded on law. Expropriation, when necessary or for public utility, must be authorized by law or by a sentence founded on law, and shall not take place without previous compensation. In case of war previous compensation is not indispensable.

ART. 68. All authors or inventors enjoy the exclusive ownership of their work or inventions for such period as the law determines.

ART. 69. The right of recovery of confiscated property prescribes after fifty years.

ART. 70. Congress alone shall impose national taxes.

ART. 71. No personal service can be exacted except by virtue of the law or a sentence founded on law.

GENERAL PROVISIONS.

ART. 72. The enumeration of rights and guarantees made in this Constitution does not exclude other rights and guarantees not enumerated but arising from the principle of sovereignty of the people and of the republican form of government.

ART. 73. The laws which regulate the exercise of these guarantees shall become ineffective in so far as they diminish, restrict or alter them.

ART. 74. In case of external war a state of siege may be declared in the whole Republic or any part thereof. The state of siege will

last as long as the circumstances which caused it may require; but shall not exceed sixty days without a fresh declaration, and shall never alter the guarantees as set forth in Articles 27, 43 and 49.

The state of siege shall also be declared in case of disturbances of the public peace in the interior, being limited to the place or to the territory where disturbances of the order exist, and may be extended if so required for the security of the Republic.

ART. 75. In case of an epidemic, sanitary regulations may be issued in opposition to or in restriction of the guarantees contained in Articles 44, 47, in so far as relates to the detention of correspondence, 58, 64 and 71.

TITLE VI.—THE FORM OF GOVERNMENT.

ART. 76. The government of Honduras is republican, democratic and representative. It is exercised by three independent powers: Legislative, executive and judicial.

ART. 77. None of the constituted powers shall perform any acts altering the established form of Government or impairing the integrity of the territory or the national sovereignty.

TITLE VII.—THE LEGISLATIVE POWER.

ART. 78. The legislative power is exercised by a Congress of Deputies which will assemble in the capital of the Republic on the first of January of each year without need of previous convocation.

ART. 79. The sessions of Congress shall last sixty days and may be extended for forty days more, when so required by matters of actual interest.

ART. 80. Congress shall also hold extraordinary sessions when convoked by the executive, in which case it will occupy itself solely with the business stated in the decree convoking it.

ART. 81. After Congress has been installed in the capital, it may resolve to move to another place.

ART. 82. On the twenty-first day of December of each year the deputies shall assemble in preparatory meetings, and with the concurrence of five at least they shall organize the directory, in order to issue the necessary orders for the installation of Congress.

ART. 83. Two thirds of the members composing Congress shall be sufficient to constitute a quorum.

ART. 84. Five deputies may convoke an extraordinary session of Congress at any place in the Republic, whenever the executive has prevented its sessions or has dissolved them.

ART. 85. Deputies shall be elected for four years and may be re-elected indefinitely. Every two years they shall be renewed by halves. The first renewal shall be made by lot, and the subsequent ones by order of seniority.

ART. 86. The following shall not be elected deputies:

1. The secretaries and under-secretaries of State.
2. The employees of the executive power who exercise general or departmental jurisdiction.
3. Soldiers in service.
4. Contractors for public works or services paid for with funds of the State, and those who by reason of said contracts may have claims in their own interest.

5. Debtors in arrears of the public treasury, and those who have pending accounts for the administration of its funds.

6. The relatives of the President of the Republic within the fourth degree of consanguinity or the second degree of affinity.

ART. 87. Deputies from the day of their election shall enjoy the following prerogatives:

1. Personal immunity from being accused or sentenced without previous declaration of Congress to the effect that they may be prosecuted.

2. No civil action shall be brought against them from thirty days before, or until fifteen days after, the ordinary or extraordinary sessions of Congress, except in case of counter-claim.

3. Not to be subject to military service without their consent from the time of election until the end of their term of office.

4. Not to be banished from the Republic or held in confinement during the period for which they have been elected.

5. Not to be responsible for their opinions or their parliamentary initiative.

ART. 88. Deputies are not obliged to accept employment from the executive. Should they voluntarily accept any of the offices enumerated in Article 86, they shall *ipso facto* cease to be deputies and their successor shall be elected.

ART. 89. The election of deputies to Congress shall take place on the basis of one sitting deputy and one substitute for every ten thousand inhabitants. In the event of there being fractions, their representation shall be determined by law.

TITLE VIII.—THE ATTRIBUTIONS OF THE LEGISLATIVE POWER.

ART. 90. The following attributions belong to Congress:

1. To open and close its sessions, certify the elections of its members upon the presentation of their credentials and receive their promise according to law.

2. To summon the respective substitutes in case of the absolute non-attendance or legal disqualification of the sitting member and order the filling of the vacancies which may occur.

3. To accept the resignation of its members for legal reasons duly approved.

4. To regulate its internal management.
5. To decree, interpret, reform and abrogate laws.
6. To create and suppress public offices, provide pensions and decree honors.
7. To grant pardons and amnesties and commute sentences.
8. To provide for everything relative to the security and defense of the Republic.
9. To scrutinize the votes for the President and the Vice-President of the Republic and the magistrates of the Supreme Court of Justice, and declare the election of those citizens who have obtained an absolute majority.
10. In case of there being no absolute majority, to elect the President, Vice-President and magistrates from among the three citizens who have obtained for each office the greatest number of popular votes.
11. When several elections concur in a single individual, preference shall be determined in the following order: 1. President; 2. Vice-President; 3. deputy; 4. magistrate. The election as a sitting member has preference over that of substitute.
12. To receive the constitutional promise from the public officials it may elect or declare elected and to accept or refuse their resignations.
13. To designate every year three citizens to exercise the executive power in the order of their election in cases of vacancy of the Presidency or Vice-Presidency of the Republic, provided for in the Constitution.
14. To declare that there are grounds for impeachment of the President, the Vice-President, deputies, magistrates of the Supreme Court, secretaries of State and diplomatic agents during the term of their offices.
15. To change the residence of the supreme powers for grave reasons.
16. To decree rewards and grant temporary privileges to authors and inventors and to such as introduce or improve new industries of general utility.
17. To decree subsidies to promote new industries or improve existing ones.
18. To grant subventions for purposes of public utility.
19. To grant or refuse permission to Hondurans to accept employment from other nations.
20. To approve or disapprove the conduct of the executive.
21. To approve, modify or disapprove the contracts entered into by the executive in the cases provided for in Article 60, or when their effect has to be extended to the following presidential term.

22. To approve, modify or disapprove the treaties concluded with other nations.
23. To regulate land and maritime commerce.
24. To approve or disapprove the accounts of public expenditures.
25. To fix annually the budget of expenditures, taking the probable revenues as a basis thereof.
26. To levy taxes.
27. To regulate the payment of the national debt.
28. To decree the alienation of national property or its application to public uses.
29. To contract loans.
30. To open ports and to create and suppress custom-houses.
31. To decree the weight, fineness and type of national currency.
32. To declare war and conclude peace.
33. To fix in each ordinary session the number of the forces of the permanent army.
34. To allow or forbid the passage of troops belonging to another country through the territory of the Republic.
35. To declare the Republic or any part thereof in a state of siege in accordance with the law.
36. To confer the rank of general of brigade or division on recommendation of the executive.
37. To grant naturalization papers to foreigners.
38. To appoint the members of the Court of Accounts and the Fiscal General of the Treasury.

ART. 91. The legislative power shall not settle or declare the civil status of persons or grant academic or literary degrees.

ART. 92. The faculties of the legislative power, with the exception those which refer to the installation of high public officials in office, shall not be delegated.

TITLE IX.—THE FORMATION, SANCTION AND PROMULGATION OF THE LAW.

ART. 93. Only the deputies, the President of the Republic through his secretaries of State and the Supreme Court of Justice in matters within its competence can introduce laws.

ART. 94. No bill shall be definitively voted until it has been considered three times on separate days except in cases of urgency supported by two thirds of the votes. Every proposal having for its object to declare the urgency of a law must be preceded by a statement of the motives on which it is founded.

ART. 95. Every bill, as soon as it is approved by Congress, shall be dispatched to the executive, at the latest, within three days after it has been passed, so that the executive may sanction it and may cause it to be promulgated as law.

ART. 96. The promulgation of a law shall be effected with the following formula: "Therefore, let it be carried out."

ART. 97. Should the executive power find reasons for not sanctioning the bill, it shall be returned to Congress within ten days with the formula, "Return to Congress," setting forth the reasons upon which it bases its disapproval. If, within the said period it does not object, the bill shall be held to be sanctioned and shall be promulgated as law. Should the executive return the bill, Congress shall subject it to a reconsideration; and if it is ratified by two thirds of the votes, it shall be dispatched again to the executive with this formula: "Ratified constitutionally"; and the executive shall publish it without delay.

ART. 98. If Congress votes a bill at the end of its sessions which the executive considers advisable not to sanction, the latter is obliged immediately to inform Congress, so that it may remain assembled for ten days beginning from the day the executive received the bill; and should this not be done, the law will be considered as sanctioned.

ART. 99. The sanction of the executive is not necessary for the following acts or resolutions:

1. For elections made or declared by Congress, or for resignations accepted or refused by it.
2. For declarations that there are grounds for indictment.
3. For the budget law.
4. For decrees relating to the conduct of the executive.
5. For the rules it may form for its internal management.
6. For resolutions to temporarily change its residence to some other place and to suspend or extend its sessions.
7. For treaties or contracts which Congress disapproves.

ART. 100. Whenever a bill not introduced by the Supreme Court of Justice has for its object the reformation or abrogation of any of the provisions contained in the Codes of the Republic, it shall not be discussed without hearing first the opinion of that tribunal. The court shall publish its report within such period as Congress may designate. This provision does not extend to laws of political, economic or administrative character.

TITLE X.—THE EXECUTIVE POWER.

ART. 101. The executive power is exercised by a citizen who is called President of the Republic; in default thereof, by a Vice-

resident, and in default of the latter, by one of the Designates in the order of their appointment.

ART. 102. The President, the Vice-President and the Designate must be citizens in the exercise of their rights, over 21 years of age and natives of Honduras.

ART. 103. The President and Vice-President shall be elected by popular and direct vote, and their election shall be declared by Congress, as is prescribed.

ART. 104. The presidential term shall be for four years and shall commence on 1 February.

A citizen who has proprietorially exercised the Presidency shall not be reelected nor be elected Vice-President for the following term. Neither shall his relatives within the fourth degree of consanguinity or the second degree of affinity be elected President or Vice-President.

ART. 105. No citizen who has occupied the constitutional Presidency during the last six months of the presidential term, nor his relatives within the degrees stated in the foregoing article, shall be elected President.

ART. 106. In case of absolute default of the President of the Republic, the executive power shall be in charge of the Vice-President; and in default of the latter, the corresponding Designates in the order of their election. The Designate shall finish out the presidential term, should such vacancy occur within the last year; but should it occur before the first three years have elapsed, a new presidential election must be proceeded with one month after the vacancy has occurred. In case of temporary disability, the functions of the President shall be exercised by the Vice-President and the Designates in the order of their election.

ART. 107. Until the person designated by law has taken charge of the Presidency, the executive power shall be exercised by the Council of Ministers, and the latter shall immediately call the new official to give him charge of office, if Congress has not assembled.

TITLE XI.—THE DUTIES AND ATTRIBUTIONS OF THE EXECUTIVE POWER.

ART. 108. The President of the Republic has the general administration of the country. His attributions are:

1. To exercise command as chief of the land and naval forces.
2. To defend the independence and the honor of the nation, and the integrity of its territory.
3. To carry out and provide for the fulfillment of the laws, issuing for this purpose the necessary decrees and orders without altering their spirit.

4. To appoint the secretaries and under-secretaries of State and the other officials of the executive department, in accordance with the law.

5. To preserve the internal peace and security of the Republic, and to repel all external attack or aggression.

6. To give to the officials of the judicial power the force and assistance which they may require to make their decisions effective.

7. To remove officials of his own free appointment.

8. To see that all officials of the Republic fulfill the duties which are imposed upon them by law, without interfering in the exercise of their functions.

9. To grant amnesties, whenever public convenience demands it, during the recess of Congress.

10. To commute sentences in accordance with the law during the recess of Congress.

11. To convoke Congress to extraordinary sessions or to propose the prorogation of the ordinary ones.

12. To declare war and make peace and to permit or forbid the passage of troops of another country through the territory of the Republic, when circumstances do not permit the assembling of Congress to decide the matter.

13. To submit through the respective secretaries of State, within the first eight days after the assembling of Congress, a detailed report or memorial of all the branches of the administration.

14. To conclude treaties and any other diplomatic negotiations, submitting them to the ratification of Congress at the next session.

15. To direct foreign relations, to appoint diplomatic and consular agents of the Republic, and to receive ministers and admit consuls of foreign nations.

16. To cause the revenue of the State to be collected and to regulate the disposal thereof in accordance with the law.

17. In case of invasion or rebellion, if the resources of the State should be insufficient, to decree a general and proportional loan, voluntary or forced, of the disposal of which he shall give an account to Congress at the next session.

18. To confer military grades from sub-lieutenant to colonel and those of general of brigade and division on the field of battle to military officers who distinguish themselves by their conduct; submitting the appointments of generals to the approval of Congress at its next session.

19. To dispose of the military forces and to organize and distribute them in accordance with the law as the necessities of the Republic may require.

20. To grant letters of marque and reprisal.

21. To declare the Republic or a part thereof in a state of siege in accordance with the law during the recess of Congress, with the obligation of rendering an account to Congress, at its first meeting, of the use that he may have made of this power.

22. To grant naturalization papers in accordance with the law.

23. To grant or deny permission to Hondurans, during the recess of Congress, to accept employment from another nation.

24. To direct and promote public instruction and to provide for the education of the people.

25. To sanction the laws and exercise the right of veto when necessary, and to promulgate without delay those legislative enactments which do not require the sanction of the executive.

26. To order, during the recess of Congress, the filling of vacancies among the deputies and the magistrates of the Supreme Court in accordance with the law, at the latest one month after the vacancies have occurred.

27. To appoint *ad interim*, during the recess of Congress, the members of the Court of Accounts and the Fiscal General of the treasury.

28. To publish monthly the report of receipts and expenditures of the public revenues.

29. To keep watch on the legal exactness of the currency, and look after the uniformity of weights and measures.

30. To exercise the supreme command of the police force.

ART. 109. The orders of the executive power which do not emanate from the corresponding ministry shall not be obeyed. The President and the ministers shall be jointly responsible for the orders they may issue in contravention of the Constitution and the laws.

ART. 110. Whenever the President of the Republic may consider advisable to place himself at the head of the army, he shall entrust the executive power to the citizen who must replace him under the Constitution; and he shall become invested only with the character of General-in-Chief and with the attributions of Commanding General.

TITLE XII.—THE SECRETARIES OF STATE.

ART. 111. There shall be from three to six secretaries of State, and the executive shall apportion between them the transaction of business.

ART. 112. The secretaries of State must be native or naturalized Hondurans and over 21 years of age.

ART. 113. The following shall not be secretaries of State: Contractors of public works or services who are to be paid by the nation; those who by reason of said contracts may hold claims for their own

interests; debtors of the public treasury, and those who have accounts pending in favor of the latter, for administration of funds.

ART. 114. The secretaries of State may assist at the deliberations of Congress without the right to vote, and they must attend whenever they are called, and answer the interpellations which any deputy may make to them in regard to administrative matters, excepting those of the Departments of War and of Foreign Relations, when they consider it necessary to maintain reserve, until Congress orders them to answer.

ART. 115. The under-secretaries of State must have the same qualifications as the secretaries, and they shall substitute the latter by ministration of the law.

TITLE XIII.—THE JUDICIAL POWER.

ART. 116. The judicial power of the Republic shall be exercised by a Supreme Court of Justice composed of five magistrates, who shall reside at the capital, and by the inferior courts and judges which the law establishes.

ART. 117. To be a magistrate it is required to be a lawyer and over 25 years of age.

ART. 118. Magistrates of the Supreme Court shall be elected by the people, and may be reelected.

ART. 119. Three substitute magistrates shall likewise be elected, who shall substitute for the sitting magistrates, and must have the same qualifications as the latter. In case the vacancy is absolute, the executive power shall issue a call for elections to fill the place of the sitting magistrate, and the election shall be declared by the Supreme Court.

ART. 120. The Supreme Court of Justice shall appoint the magistrates of the Courts of Appeals, the departmental and sectional inferior judges and the officials of the public ministry in accordance with the law. The justices of the peace shall be elected by popular vote in the respective municipal districts.

ART. 121. Persons who are related within the fourth degree of consanguinity or the second degree of affinity shall not be magistrates or judges in the same tribunal.

If two or more persons related within said degrees are elected, the one obtaining the highest number of votes shall be given preference, and in case of equal number of votes, the one who is the senior lawyer shall be preferred. The election of the others shall be replaced.

ART. 122. The term of office of magistrates, departmental or sectional judges and officials of the public ministry shall be four years and they shall take possession of their posts on 1 February.

ART. 123. The Supreme Court shall accept or refuse the resignations of the officials of its appointment, and shall grant leave of absence both to the latter and to its own members.

Departmental and sectional judges shall accept or refuse the resignations and grant leave of absence to the justices of the peace.

ART. 124. The law shall regulate the organization and attributions of the tribunals of justice.

ART. 125. The power to judge and to carry judgments into effect is vested in the courts and other tribunals of justice. It is their business to apply the laws in concrete cases legally brought before them, and to refuse to carry them out when they are contrary to the Constitution.

ART. 126. A jury is established in those places where there are departmental or sectional judges who shall sit in all criminal cases which must be heard before a court of record. The law shall regulate this institution.

ART. 127. The Supreme Court of Justice, in addition to the attributions conferred upon it by law, shall exercise the following attributions:

1. To formulate its internal regulations.
2. To take cognizance of official and common offenses, committed by high public officials, when Congress has declared that there are grounds for their indictment.
3. To authorize the lawyers and notaries, licensed within or outside of the Republic, to exercise their profession, with the exceptions established in the treaties, and to suspend them in accordance with the law.
4. To declare that there are grounds for impeachment of the members of the Court of Accounts, of the Fiscal General of the Treasury and of the principal national and departmental officials which the law may determine, for offenses committed by them in the discharge of their duties.

5. To take cognizance of prize cases, extradition cases and other cases which should be judged in accordance with international law.

ART. 128. Direct proceedings may also be established before the Supreme Court of Justice, against the constitutionality of a law in regard to matters not within the jurisdiction of the courts, by any person whose legal rights may be injured by reason of the application of that law in a concrete case. The law shall regulate the use of this recourse.

ART. 129. The administration of justice in the Republic is gratuitous.

ART. 130. The members of the courts of justice shall not, during their term of office, hold any other office carrying jurisdictional powers.

ART. 131. Courts of justice may demand the assistance of the armed forces for the enforcement of their decrees, and should this be denied them, or in case it is not available, they may require such assistance from the citizens. The public official who should unduly refuse to give assistance shall incur liability.

ART. 132. No person having the free administration of his property may be deprived of the right to put an end to his civil cases through a compromise or arbitration.

ART. 133. The same judge shall not act in his official capacity in different stages of the same case.

ART. 134. No power or authority shall order pending suits to be moved to its jurisdiction nor reopen cases which have terminated.

TITLE XIV.—THE BUDGET.

ART. 135. The budget shall be voted by Congress according to the bill presented by the executive power.

ART. 136. The bill for the budget shall be presented by the respective minister, within a fortnight after Congress is convened.

ART. 137. All expenditures made outside of the law are illegal, and, in case of failure to comply with their respective duties, the President, the respective minister, the members of the Court of Accounts, and the employees who intervened in the matter shall be jointly responsible for the amount expended.

ART. 138. The budget of the ordinary expenditures of the public administration shall not exceed the probable receipts estimated by the national Congress.

TITLE XV.—THE PUBLIC TREASURY.

ART. 139. The following form the public treasury of the nation.

1. All its real and movable property.
2. Any sums to its credit.
3. The product of the duties, taxes and imposts.

ART. 140. The executive power shall not enter into contracts of importance which may compromise the national treasury without the previous publication of the proposal in the official journal and the reception of public bids. Contracts which are made for the purpose of providing for the needs of war, and those which, from their nature, can only be entered with certain persons, are excepted.

ART. 141. In order to fiscalize the administration of the national treasury, there will be a Higher Auditorship or Superior Court of Accounts whose attributions shall be to examine, approve or disapprove the accounts of those who administer public funds, and to return to the executive the orders which are not in accordance with the law for the purposes which may be determined by the law.

ART. 142. The members of this Court must be over 21 years of age, and must not be creditors or debtors of the public treasury, nor have accounts pending therewith. Their number, organization and attributions shall be determined by law.

ART. 143. There will be a Fiscal General who shall represent the interests of the public treasury. His attributions shall be determined by law.

TITLE XVI.—THE ARMY.

ART. 144. The public force is established to insure the rights of the nation, the compliance with the law and the preservation of public order.

ART. 145. No armed body shall deliberate. Military obedience shall be regulated by law and military ordinances.

ART. 146. Military service is compulsory. Every Honduran from 18 to 30 years of age is a soldier in the active army, and from 30 to 40 years of age, in the reserve. The law shall provide for the organization of the militia, and shall establish the causes for exemption from service.

Commissioned military officers, after reaching the age of 40 years, have the right to resign their commissions and become separated from the service.

ART. 147. Military offenses shall be subject to military jurisdiction.

TITLE XVII.—THE DEPARTMENTAL GOVERNMENT..

ART. 148. For the public administration the territory of the nation is divided into departments, the number and limits of which shall be determined by law. In each one of the said departments there shall be the officials which the law may determine.

ART. 149. In the departmental government no one shall be permitted to exercise at the same time, unless *ad interim* and for a period not to exceed three months, political, military and treasury functions.

TITLE XVIII.—THE MUNICIPAL GOVERNMENT.

ART. 150. The municipal government is autonomous, and shall be constituted in municipal corporations directly elected by the people.

The law shall regulate the organization and attributions of municipal corporations. The number of their members shall be proportional to their population. The attributions of municipal corporations shall be purely economical and administrative.

ART. 151. Municipal corporations shall levy, according to law, local taxes, and shall manage the property and funds of the community for the benefit of the same, rendering an account of their

administration to the Court established by law. They shall submit annually a detailed report of receipts and expenditures.

ART. 152. Municipal corporations shall freely appoint their own employees, and those police agents whose salaries are to be paid out of the municipal funds.

ART. 153. In the exercise of their own functions municipal corporations shall be wholly independent of the other powers, but in no case shall they violate the general laws of the country. They shall be responsible before the courts of justice for any acts which they may commit collectively or individually.

ART. 154. Municipal corporations have the power to commute, according to law, sentences imposed for misdemeanors.

Municipal corporations have also the right to take action on matters of police, sanitation and public instruction, provided said action is not in opposition to the Constitution and general laws.

ART. 155. No member of the municipal corporations shall be compelled to accept another position or be called to the military service.

TITLE XIX.—THE RESPONSIBILITY OF PUBLIC EMPLOYEES.

ART. 156. Every employee or public functionary, when entering on the discharge of his duties, shall make the following promise:

I promise to be faithful to the Republic, and to comply and make others comply with the Constitution and the laws.

ART. 157. Every public functionary is responsible for his own acts.

ART. 158. The President of the Republic, deputies, justices of the Supreme Court, secretaries of State and diplomatic ministers shall be answerable before Congress for the offenses committed by them in the exercise of their functions. Congress, after following the course of procedure for such cases, determined by its rules, shall declare whether or not there are grounds for their indictment. In order to place the offender at the disposal of the competent court. The same declaration shall be required before instituting proceedings for common offenses, against the President of the Republic, the secretaries of State and justices of the Supreme Court.

ART. 159. Notwithstanding the approval which Congress may give to the conduct of the executive, the President and secretaries of State may be accused for official offenses. If these public officials have remained in the country, the right to bring such proceedings against them shall become prescribed five years after they have ceased in their office.

ART. 160. Public employees who violate any of the rights and guarantees set forth in this Constitution shall be civilly and criminally responsible. They may be accused without need of filing a bond for libel. They shall not be pardoned nor their sentences commuted

within the constitutional period, nor during the following one. The offenses and the penalties which they may be liable for shall not prescribe until after the said two periods.

ART. 161. Whenever a public functionary, against whom a declaration should have been made to the effect that there are grounds for his indictment, should be acquitted, he shall be reinstated in the exercise of his functions.

TITLE XX.—CONSTITUTIONAL LAWS.

ART. 162. The following are constitutional laws: Press laws, laws regarding a state of siege, laws granting the right of asylum (*amparo*) and electoral laws.

TITLE XXI.—REFORMS OF THE CONSTITUTION AND CONSTITUTIONAL LAWS.

ART. 163. The reforms of this Constitution shall only be effected by two thirds of the votes of the representatives in Congress in ordinary session setting forth the article or articles which need reform, and stating whether or not the reform is to be absolute.

As soon as the reform is decreed, Congress shall convoke a Constituent Assembly in order that the latter may proceed to reform it; the decree containing the proposed reforms to be contained in the decree of convocation.

ART. 164. The Constituent Assembly shall be elected in the same manner as Congress, and shall have the same number of representatives, with the same immunities.

ART. 165. In no case shall a reform of the articles of the Constitution forbidding the reelection of the President or of his substitute, and establishing the duration of the presidential term be decreed so as to be effective during the current term, or during the following term.

ART. 166. The constitutional laws may be reformed in the same manner as the Constitution, or by two ordinary Congresses with two thirds of the votes.

ART. 167. The National Constituent Assembly entrusts this Constitution, and the rights consecrated therein, to the patriotism of all Hondurans.

FINAL ARTICLE. The present Constitution shall commence to take effect on 1 January 1895; the Constitution of 1 November 1880 being annulled from that date.¹

¹ The signatures of 41 deputies follow.

ITALY.

the victorious campaigns of Napoleon in 1796 and 1797 constituted the starting-point of a series of political revolutions in Italy which ended in the successive annexation of all the parts of Italy to the Kingdom of Sardinia and the formation of the Kingdom of Italy in 1861. From 1797 to 1849 there were 23 constitutions or statutes in force in Italy. Of all of these the *Statuto fondamentale* of the Kingdom of Sardinia of 4 March 1848 was the only one to survive and it forms the Constitution of the Kingdom of Italy. This Statute, promulgated by King Charles Albert in a famous proclamation of 18 February 1848, was published the following month and was put into effect in the annexed territories by successive decrees.¹ Many of the provisions of this Statute have fallen into disuse, although not expressly repealed. In this number are generally classed Articles 1, 28 (Paragraph 2), 53, 62 (Paragraph 2), 76, 77 and 80. A Law of 17 March 1861 conferred on Victor Emmanuel II and his successors the title of King of Italy, and a Law of 3 February 1871 transferred the capital of the Kingdom to Rome. The position of the Holy See was governed by the Law of 13 May 1871, called the "Law of Guarantees," which was declared to be a fundamental law of the Kingdom by the Council of State (2 March 1878). Nevertheless, since the Holy See has not ceased to protest against the annexation of the Italian States, this law has remained the unilateral work of the Italian government.²

FUNDAMENTAL STATUTE OF 4 MARCH 1848.³

[PREAMBLE.]

We, Charles Albert, by the Grace of God, King of Sardinia, Cyprus, Jerusalem, Duke of Savoy, Genoa, etc., etc., Prince of Piedmont,

¹ Lombardy, decree of 7 December 1859; Emilia, decree of 18 March 1860 and law of 15 April 1860; Tuscany, decree of 22 March and law of 15 April 1860; Sicily, Marches, Apulia and Neapolitan Provinces, law of 17 December 1860; Province of Venice, decree of 28 July 1866; Roman Provinces, decree of 9 October and law of 31 December 1866.

² Its introductory paragraph is based upon F. R. DARESTE ET P. DARESTE, *Les Constitutions modernes* (3d edition, Paris, 1910), vol. 1, pp. 672-674.

³ English translation in W. F. DODD, *Modern Constitutions* (Chicago, 1909), vol. II, pp. 1-16, and by S. M. LINDHAY and L. S. ROWE in the *Supplement to the Annals of the American Academy of Political and Social Science*, November, 1894 (Philadelphia, 1894). French translation in DARESTE, *op. cit.*, pp. 674-685. German translation in PAUL MEYER, *Die Staatsverfassungen des Erdballs* (Charlottenburg, 1909), pp. 642-656. Translation given here is based on that in DODD.

etc., etc., etc., with the fidelity of a king and the affection of a father. are about today to fulfill all that we promised our most beloved subjects in our proclamation of the eighth of last February, whereby we desired to show, in the midst of the extraordinary events then transpiring throughout the country, how much our confidence in our subjects increased with the gravity of the situation, and how, consulting only the impulse of our heart, we had fully determined to make their condition conform to the spirit of the times and to the interests and dignity of the nation.

We, believing that the broad and permanent representative institutions established by this Fundamental Statute are the surest means of cementing the bonds of indissoluble affection that bind to our Italian crown a people that has so often given us ample proof of their faithfulness, obedience and love, have determined to sanction and promulgate this Statute, in the belief that God will bless our good intentions, and that this free, strong and happy nation will ever show itself more deserving of its ancient fame and thus merit a glorious future.

Therefore, we, with our full knowledge and royal authority and with the advice of our Council, have ordained and do hereby ordain and declare in force the fundamental perpetual and irrevocable Statute and law of the monarchy as follows.

ARTICLE 1. The Catholic, apostolic and Roman religion is the only religion of the State.¹ Other cults now existing are tolerated, in conformity with the law.

ART. 2. The State is governed by a representative monarchical government. The throne is hereditary according to the Salic Law.²

ART. 3. The legislative power shall be exercised collectively by the King and two houses, the Senate and the Chamber of Deputies.³

ART. 4. The person of the King is sacred and inviolable.

ART. 5. To the King alone belongs the executive power. He is the supreme head of the State; commands all land and naval forces; declares war; makes treaties of peace, alliance, commerce and other treaties, communicating them to the houses as soon as the interest and security of the State permit, accompanying such notice with opportune explanations. Treaties involving financial obligations or alterations of the territory of the State shall not take effect until after they have received the approval of the houses.

ART. 6. The King appoints to all of the offices of the State, and makes the necessary decrees and regulations for the execution of the laws, without suspending their execution or granting exemptions.

¹ See below, the Law of 13 May 1871. The Law of 19 June 1848 reads as follows. "Difference of religion shall entail no distinction as regards the enjoyment of civil and political rights and eligibility to civil and military positions."

² Law of 2 July 1890 on the status of the royal family.

³ In case of political necessity, the Italian government frequently takes legislative measures by means of law decrees, and this procedure is considered justified by the commentators on this Statute.

ART. 7. The King alone approves and promulgates the laws.

ART. 8. The King may grant pardons and commute sentences.¹

ART. 9. The King convokes the two houses every year. He may prorogue their sessions and dissolve the Chamber of Deputies, but in the latter case he shall convoke another within a period of four months.

ART. 10. The initiative in legislation shall belong both to the King and to each of the two houses. All bills, however, levying imposts or contributions or approving the budgets or accounts of the State shall first be presented to the Chamber of Deputies.

ART. 11. The King attains his majority upon the completion of his 18th year.

ART. 12. During the King's minority, the prince who is his nearest relative in the order of succession to the throne, shall be regent of the Kingdom, provided he be 21 years of age.

ART. 13. Should the prince upon whom the regency devolves be still in his minority and this duty pass to a more distant relative, the regent who actually takes office shall continue in the regency until the King becomes of age.

ART. 14. In the absence of male relatives the regency shall devolve upon the Queen Mother.

ART. 15. In default also of a Queen Mother, the regent shall be elected by the legislative houses, convened within 10 days by the ministers.

ART. 16. The preceding provisions with reference to the regency are applicable in case the King who has attained his majority is physically incapable of reigning. Under such circumstances, if the heir presumptive to the throne be 18 years of age, he shall be regent of full right.

ART. 17. The Queen Mother shall be guardian of the King until he has completed his 18th year; from this time his guardianship shall pass into the hands of the regent.

ART. 18. All rights pertaining to the civil power in matters of ecclesiastical benefices and in the execution of all regulations whatever coming from foreign countries shall be exercised by the King.²

ART. 19. The civil list of the Crown shall remain, during the present reign, at an amount equal to the average for the past 10 years.

The King shall continue to have the use of the royal palaces, parks and gardens and their appurtenances, and also of all chattels without distinction pertaining to the Crown, of which a speedy inventory shall be made by a responsible ministry.

The King also exercises the right of amnesty (Code of Penal Procedure, Art. 830). The clause, "regulations from foreign countries," refers to papal decrees, ecclesiastical ordinances and orders; at the time of the adoption of this Statute Rome was foreign territory.

In future the above-mentioned civil list shall be fixed for the duration of each reign by the first legislature subsequent to the King's accession to the throne.¹

ART. 20. The property which the King now possesses in his own right, together with that to which he may hereafter acquire title, either for a consideration or gratuitously in the course of his reign, shall form his private patrimony.

The King may dispose of his private patrimony either by acts during his life or by will, without being bound by the provisions of the civil law which limit the amount disposable. In all other cases, the King's patrimony shall be subject to the laws that govern other property.

ART. 21. The law shall provide an annual civil list for the hereditary prince when he has attained his majority, and even earlier in case of his marriage; for the allowances to the princes of the royal family and of royal blood, under the above-mentioned conditions; for the dowries of the princesses and for the dowries of the queens.

ART. 22. Upon ascending the throne, the King, in the presence of the houses, in joint session, shall take the oath to observe faithfully the present Statute.

ART. 23. The regent, before entering on the duties of that office, shall take the oath to be faithful to the King and to observe faithfully this Statute and the laws of the State.

THE RIGHTS AND DUTIES OF CITIZENS.

ART. 24. All inhabitants of the Kingdom,² whatever their rank or title, are equal before the law.

All shall equally enjoy civil and political rights and shall be eligible to civil and military office, except as otherwise provided by law.

ART. 25. All shall contribute without distinction to the burdens of the State, in proportion to their possessions.

ART. 26. Individual liberty is guaranteed.

No one shall be arrested or brought to trial except in the cases provided by law and in the forms which it prescribes.

ART. 27. The domicile is inviolable. No domiciliary search shall take place except by virtue of law and in the forms which it prescribes.

ART. 28. The press shall be free, but the law may suppress abuses of this freedom.³

¹ At present the civil list has been fixed at 16,050,000 lire.

² Law of 17 May 1906 on naturalization.

³ Edict of 26 March 1848, amended by many later laws.

Nevertheless, Bibles, catechisms, liturgical and prayer books shall not be printed without the previous consent of the bishop.¹

ART. 29. All property, without exception, is inviolable.

Nevertheless, when the public interest, legally ascertained, requires it, a person may be bound to give it up, in whole or in part, on payment of a just indemnity in accordance with the law.²

ART. 30. No tax shall be levied or collected without the consent of the houses and the approval of the King.

ART. 31. The public debt is guaranteed.

All obligations of the State to its creditors are inviolable.

ART. 32. The right to assemble peaceably and without arms is recognized, subject, however, to the laws that may regulate its exercise in the interest of the public welfare.³

This provision is not applicable to meetings in public places or places open to the public, which remain entirely subject to police laws.

THE SENATE.

ART. 33. The Senate shall be composed of members, appointed for life by the King without limit of numbers, who have attained the age of 40 years and who have been chosen from the following categories of citizens:

1. Archbishops and bishops of the State.
2. The president of the Chamber of Deputies.
3. Deputies after having served in three legislatures, or after 15 years of service.
4. Ministers of State.
5. Ministers secretaries of State.
6. Ambassadors.
7. Envoys extraordinary, after three years of such service.
8. The first presidents and presidents of the Courts of Cassation and of the Court of Accounts.
9. The first presidents of the Courts of Appeal.
10. The attorney general of the Courts of Cassation, and the prosecutor general, after five years of service.
11. The presidents of the chambers of the Courts of Appeals, after three years of service.
12. The councilors of the Courts of Cassation and of the Court of Accounts, after five years of service.
13. The attorneys general and fiscals general of the Courts of Appeal, after five years of service.

¹ The second paragraph of this article has been practically abrogated.

² Law of 25 June 1865.

³ Law of 23 December 1888 on public security, coordinated with the new Penal Code by Decree of 30 June 1889.

14. General officers of the land and naval forces.

Major generals and rear admirals, however, should have five years of active service in that grade.

15. The councilors of State, after five years of service.

16. The members of the Councils of Division,¹ after three elections to their presidency.

17. The intendants general,² after seven years of service.

18. Members of the Royal Academy of Sciences,³ after seven years of membership.

19. Regular members of the Superior Council of Public Instruction, after seven years of service.

20. Those who by their services or eminent merit have done honor to their country.

21. Persons who, for at least three years, have paid direct property or business taxes to the amount of 3,000 lire.⁴

ART. 34. The princes of the royal family are, by that very fact, members of the Senate. They shall take rank immediately after the president. They shall enter the Senate at the age of 21 and have a vote at 25.

ART. 35. The president and vice-presidents of the Senate shall be appointed by the King.⁵

The Senate shall choose its own secretaries from among its own members.

ART. 36. The Senate may be constituted a High Court of Justice by decree of the King to try crimes of high treason and attempts upon the safety of the State, and to try ministers impeached by the Chamber of Deputies.⁶

In this case, the Senate is not a political body. It shall not then occupy itself with any other judicial matters than those for which it was convened, under penalty of nullity.

ART. 37. No senator shall be arrested except by virtue of an order of the Senate, except in case of *flagrante delicto*. It alone is competent to judge of the imputed misdemeanors of its members.

ART. 38. Legal documents as to births, marriages and deaths of members of the royal family shall be presented to the Senate and deposited by that body among its archives.

¹ At the time of the adoption of this Statute the "Division" in Piedmont corresponded to the "Province" in modern Italy. The Councils of Division are therefore the elective representative bodies of the Provinces, now known as the Provincial Councils.

² Now called "prefects."

³ This provision has been extended to six other academies.

⁴ In 1916 there were 395 senators and 6 members of the royal family.

⁵ Law of 6 June 1889 fixes the term of office.

⁶ Regulation of 20 December 1900 on the procedure before the Senate constituted as a High Court of Justice.

THE CHAMBER OF DEPUTIES.

ART. 39. The elective house shall be composed of deputies chosen by the electoral colleges in conformity with the law.¹

ART. 40. No deputy shall be admitted to the Chamber who is not a subject of the King, 30 years of age, in the enjoyment of civil and political rights and in the possession of the other qualifications required by law.²

ART. 41. Deputies represent the nation as a whole, and not the several provinces in which they were elected.

No binding instructions shall be given to them by the electors.

ART. 42. Deputies are elected for five years; their mandate ceases *ipso facto* at the expiration of this period.

ART. 43. The president, vice-presidents and secretaries of the Chamber of Deputies are chosen by the Chamber from among its own members at the beginning of each session, for the entire session.

ART. 44. If a deputy ceases for any reason to perform his duties, the college which elected him shall be called upon at once to proceed with a new election.

ART. 45. During the sessions no deputy shall be arrested, except in case of *flagrante delicto*, nor be proceeded against in criminal matters without the previous consent of the Chamber.

ART. 46. No warrant of arrest for debts³ shall be executed against a deputy during the sessions of the Chamber, nor within a period of three weeks preceding or following the same.

ART. 47. The Chamber of Deputies has the right to impeach ministers of the King and to bring them to trial before the High Court of Justice.

PROVISIONS COMMON TO BOTH HOUSES.

ART. 48. The sessions of the Senate and of the Chamber of Deputies begin and end at the same time.

Every meeting of one house at a time when the other is not in session is illegal and its acts are entirely void.

ART. 49. Senators and deputies before being admitted to the exercise of their functions take the oath to be faithful to the King.

¹ The election of deputies is now controlled by the Decree of 28 March 1895, which is a consolidation of all laws in force passed before that date. Italy is divided into 508 districts, each of which elects 1 deputy. Voters must possess the following qualifications: (1) Be Italian citizens; (2) have attained the age of 21 years; (3) be able to read and write; (4) have successfully passed the examinations in the subjects comprised in the course of compulsory elementary education. The fourth qualification is not required of officials, graduates of colleges, professional men, of those who pay an annual direct tax of not less than 19.80 lire, of those who pay an agricultural rental of 500 lire, of those who pay house rent of from 150 to 400 lire according to the population of the commune in which they live, of those who have served 2 years in the army, and of certain other less important classes. The Electoral Law received slight modifications by the Laws of 5 December 1897, 7 April 1898 and 19 May 1901.

² Parliamentary incompatibilities are governed by the Law of 5 July 1887.

³ The Mancini Law of 6 December 1877 has done away with personal arrest for debts.

to observe faithfully the Statute and the laws of the State and to perform their functions with the inseparable welfare of King and country as the sole end in view.¹

ART. 50. The office of senator or deputy shall not carry with it any compensation or indemnity.²

ART. 51. Senators and deputies shall not be called to account for opinions expressed or votes given in the houses.

ART. 52. The sessions of the houses are public.

Nevertheless, upon the written request of 10 members secret sessions may be held.

ART. 53. Sessions and deliberations of the houses are not legal or valid if an absolute majority of their members is not present.

ART. 54. Action on any question shall be taken only by a majority of the votes cast.

ART. 55. All bills shall first be submitted for preliminary examination to committees elected by each house. Any proposition discussed and approved by one house shall be transmitted to the other for its consideration and approval; and then it shall be presented to the King for his approval.

Bills shall be discussed article by article.

ART. 56. Any bill rejected by one of the three legislative powers shall not again be introduced during the same session.

ART. 57. Every person who has attained his majority has the right to send petitions to the houses, which shall order them to be examined by a committee and, on report of the committee, shall decide whether such petitions are to be taken into consideration; in case of an affirmative decision they shall be referred to the competent minister or deposited in the offices³ for action at the proper time.

ART. 58. No petition may be presented in person to either house.

Legally organized bodies alone shall have the right to petition under a collective name.

ART. 59. The houses shall not receive any deputation, nor give hearing to others than their own members, ministers, and commissioners of the government.

ART. 60. Each house shall be the sole judge of the qualification and elections of its own members.

ART. 61. The Senate and the Chamber of Deputies shall make their own rules and regulations respecting their methods of procedure in the performance of their respective duties.⁴

¹ Law of 30 December 1882 on the political oath.

² Senators and deputies receive free passage on the railroads (Decree of 26 December 1861).

³ The Chamber of Deputies is divided into 9 sections (*ufflet*), among which legislative business is divided by the president of the Chamber.

⁴ The Internal Regulations of the Senate bear the date of 17 April 1883 (amended in 1900 and 1902); those of the Chamber of Deputies are of 1 July 1900 (amended in 1904 and 1904).

32. The Italian language is the official language of the houses. The use of French shall, however, be permitted to the members from districts where French is used, and in replying to

63. Votes shall be taken by rising and sitting, by division, secret ballot.

Another method, however, shall always be employed for the final law and in all cases of a personal character.

64. No one shall at the same time be senator and deputy.

THE MINISTERS.

35. The King appoints and dismisses his ministers.²

36. The ministers have no vote in either house unless they are members thereof.

They shall have entrance to both houses and shall be heard upon

37. The ministers are responsible.

Governmental acts shall not take effect until they shall have received the signature of a minister.

THE JUDICIARY.

38. Justice emanates from the King and shall be administered uniformly by the judges whom he appoints.

69. Judges appointed by the King, except cantonal judges, are irremovable after three years of service.³

70. Courts, tribunals and judges shall be retained as at present. No modification shall be introduced except by law.⁴

71. No one shall be withdrawn from his ordinary legal juris-

dition, therefore, not be lawful to create extraordinary tribunals or commissions.⁵

cause applied principally to Savoy and Nice, which became a part of France by the Treaty of 24 March 1860.

of 25 August 1876 on the attributions of the Council of Ministers. Law of 18 July 1888 reorganizing the central administration of the State and providing for secretaries of State for each ministry. Law of 3 May 1888 on the reelection of members and under-secretaries of State. Law of 8 April 1906 determining the composition of the president of the Council, of the ministers and of the under-secretaries of State.

Law of 10 October 1907, instituted a Superior Council on the Magistracy to regulate the method of promotion of judicial personnel. Law of 14 July 1907 on the organization and discipline of the magistracy.

Law on the Organization of the Judiciary dates from 6 December 1865 (amended by laws of 18 July 1904 and 14 July 1907). Organic Law of 8 June 1874 on the organization of the Court of Cassation. Organic Law of 14 August 1862 on the Court of

Code of Penal Procedure, however, in Article 706 provides that, in case of rebellion, or on the grounds of public safety, a person may be removed for trial to a regularly constituted jurisdiction.

ART. 72. The proceedings of courts in civil cases and the hearings in criminal cases shall be public, as provided by law.

ART. 73. The interpretation of the laws, in the form obligatory upon all citizens, belongs exclusively to the legislative power.

GENERAL PROVISIONS.

ART. 74. Communal and provincial institutions and the boundaries of the communes and provinces shall be regulated by law.¹

ART. 75. Military conscriptions shall be regulated by law.²

ART. 76. A communal militia shall be established upon a basis fixed by law.³

ART. 77. The State retains its flag, and the blue cockade is the only national one.⁴

ART. 78. The knightly orders now in existence shall be maintained with their endowments, which shall not be used for other purposes than those specified in the acts by which they were established.

The King may create other orders and prescribe their constitutions.

ART. 79. Titles of nobility shall be borne by those who have a right to them. The King may confer new titles.

ART. 80. No one may receive decorations, titles or pensions from a foreign power without the authorization of the King.

ART. 81. All laws contrary to the present Statute are abrogated.

TRANSITORY PROVISIONS.

ART. 82. This Statute shall go into effect on the day of the first meeting of the two houses, which shall take place immediately after the elections. Until that time urgent public service shall be provided for by royal ordinances according to the mode and form now in vogue, excepting, however, the authentications and registrations in the courts which are from now on abolished.

ART. 83. In the execution of this Statute the King reserves to himself the right to make the laws for the press, elections, communal militia and the reorganization of the Council of State.

Until the publication of the laws for the press, the regulations now in force on this subject shall remain valid.

ART. 84. The ministers are entrusted with and are responsible for the execution and full observance of these transitory provisions.

¹ All of the laws relating to provincial and communal organizations were codified first by the Decree of 10 February 1889, secondly by the Decree of 4 May 1898 and thirdly by the Decree of 21 May 1908. The Kingdom is divided into provinces, circondari, mandamenti, and communes, and the system of provincial and communal government is to a large extent copied from France.

² The laws on the organization of the army were codified by the Decree of 14 July 1898 (amended by the Laws of 7 July 1901 and 24 December 1908).

³ The national guard has been suppressed.

⁴ The Italian tricolor of green, white and red was adopted by the Proclamation of 27 March 1848—an act regarded as legal, because the Statute was not in force according to the terms of Article 82.